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House Bill No. 1.

A BILL to authorize John G. Cockrell to build Lock Gates.

Be it enacted by the Legislature of West Virginia:

1. That John G. Cockrell, of Jefferson county, be authorized and empowered to put in new lock gates on the site of the old ones at Welles' Mill in the Shenandoah river, in said county, and to put in such dams and make such improvements as he may think necessary, for the purpose of the navigation of said river, and to keep in repair, and have control of the same.

2. That the said John G. Cockrell be authorized and empowered to receive tolls on all produce, and other property that may be shipped through said locks to a point where the navigation of said river reaches the Winchester and Potomac railroad, known as Shenandoah City, at the following rates: On Iron, 25 cents per ton; on flour, 2 cents per barrel; on all grain, ½ cent per bushel; and on lumber, 25 cents per thousand feet. With full power and authority to sue for and collect the same according to law.

3. That any person or persons who injures or interferes with said locks, or obstructs the navigation of said river, within the limits of said county, by putting in dams, or injuring or interfering with such as may be placed there by authority of this act, shall for each offence be guilty of a misdemeanor, and on conviction thereof be liable to a fine of not less than ten, or more than one hundred dollars, *provided* that nothing contained in this act, shall be construed to interfere with the right of the said John G. Cockrell to proceed by civil action for the recovery of damages for injuries sustained in the premises.

House Bill No. 2.

A BILL changing the time of holding the terms of the Circuit Court in Brooke County.

Be it enacted by the Legislature of West Virginia:

1. The commencement of the terms of the Circuit Court in the County of Brooke of the first Judicial Circuit, instead of being as heretofore prescribed by law, shall be as follows: On the third Tuesday of March, fourth Tuesday of June, September and November.

2. The first section of the act passed February 28th, eighteen hundred and sixty-five, is hereby repealed.

House Bill No. 3.

A BILL to prevent the collection of interest and costs in certain cases.

Be it enacted by the Legislature of West Virginia:

1. That where any contracts are made concerning real or personal property at any time prior to the first day of January one thousand eight hundred and sixty-two, by parties living in the State of Virginia, as her bounds were at that time, and any party to such contract who was a creditor and resided within the limits of the territory now embraced in the State of West Virginia, went south of the limits of said State of West Virginia at any time between the first day of April one thousand eight hundred and sixty-one and the first day of April one thousand eight hundred and sixty-five and remained within the present bounds of Virginia, or either of the so-called seceded state for a period of three months at any time between the periods aforesaid, or where any such creditor or creditors engaged in armed hostility against the United States, or this State during said rebellion, or secretly or openly assisted or aided said rebellion at any time either by giving information to persons engaged therein, encouraging, counseling or countenancing

them in the same, or where any such creditor or creditors were confined in any United States prison by order of any officer of the armies of the United States, or of this State in order to aid in the suppression of said rebellion, or where such creditor or creditors acted in such manner to induce others to believe that the currency of the United States was a war currency and would be worthless at the end of the war, or where any such creditor or creditors acted in such a manner as to induce persons loyal to the United States to believe that in case money was paid to them on any such contract that such creditor or creditors would apply the same in aiding, assisting or furthering said rebellion.

2. And when such creditor or creditors, their heirs or assigns, as heretofore recited in this act fail to show by good and sufficient evidence that they each had a legally authorized agent, loyal to the United States Government, during their absence, known to their debtors, to have such written evidence of debt as was between the creditor and debtor, and have full power to collect such debts; and that such agent did demand payment of such debts in current money of the United States within two years from the first day of April, one thousand eight hundred and sixty-one, where such debts fell due before said first day of April, one thousand eight hundred and sixty-one, and in other cases as soon as said debts became due shall not hereafter collect any interest or costs on such debts as

aforesaid, that may have accrued thereon from the first day of April, one thousand eight hundred and sixty-one, to the first day of April, one thousand eight hundred and sixty-five.

3. In all cases this act shall apply with the same force to the assignee that it is intended to apply to the assignor; and where any assignment or transfer were made during said rebellion by any such creditor or creditors as aforesaid, such assignment or transfer shall be no bar to any defence set up under this act against the assignor or assignors.

4. And such debtor or debtors may rely in his defence on one or more of the causes enumerated in this act.

5. Where any debtor in any such cases has, since the first day of April, one thousand eight hundred and sixty-one, made any payment on any contracts such payments shall not be applied to the payment of any interest that may have accrued on such debts during said rebellion.

6. And where any such debtor or debtors have, by the judgment of a justice or decree of a court heretofore rendered, been compelled to pay any interest in such cases as aforesaid, the same may be recovered back by action.

7. And where a judgment or decree has been heretofore rendered for any such interest in any such cases as aforesaid, and the same

remains unpaid, the debtor may, by petition to the court, or by motion before the justice after giving to the adverse party a reasonable notice thereof who rendered such judgment or decree, be relieved from the payment of such interest if the court or justice be satisfied from such petition or other evidence that such creditor and debtor come within the provisions of this act.

8. Such petition shall be at the cost of the creditor if the debtor succeeds in showing his right to such abatement of interest aforesaid.

House Bill No. 4.

A BILL changing the times of holding Courts in the Second Judicial Circuit.

Be it enacted by the Legislature of West Virginia:

That chapter 76 of the Acts of 1867, be and is hereby amended and re-enacted to read as follows:

The commencement of the terms of the Circuit Court in the several counties of the Second Judicial Circuit, after the first day of July next, shall be as follows:

For the county of Monongalia, on the first Monday of September, November, February and May.

For the county of Taylor, on the third Monday of September, November, February and May.

For the county of Tucker, on the first Monday of October, December, March and June.

For the county of Preston, on the second Monday of October, December, March and June.

There shall be a grand jury summoned for each term, in the counties respectively, as now provided by law.

House Bill No. 5.

A BILL to anthorize the construction of a Bridge over the Potomac river, near the mouth of New Creek.

Be it enacted by the Legislature of West Virginia:

1. That Thomas B. Davis, Samuel M. Haller, Nimrod Alkin, Roland S. Dayton, Thomas R. Carskadon and Aquilla B. M'Carty, be and they are hereby constituted and appointed commissioners with full power and authority to contract for the building of a bridge over the Potomac river, at such point near the mouth of New Creek, in Mineral county, as they, or a majority of them, may deem most suitable and convenient, on such plan as they, or a majority of them, shall adopt as most practicable; and are likewise authorized to receive and collect contributions and appropriations sufficient to enable them to pay for said bridge.

2. That said commissioners, or a majority of them, are hereby empowered to acquire by purchase or otherwise, such lands as may be necessary to construct the abutments for said bridge, as well as to secure the right of way for roads leading from the county roads, to enable all species of travel to reach said bridge at either terminus.

House Bill No. 6.

A BILL relating to Cemeteries.

Be it enacted by the Legislature of West Virginia:

1. The board of trustees of any church property upon which is erected a house of worship, may provide by purchase or condemnation, suitable grounds for burying the dead in the vicinity of such church building, and for that purpose may select and have surveyed a lot of land not exceeding six acres, or if it be necessary in their opinion to make an addition to existing burying grounds may have surveyed in addition thereto six acres of land or a less quantity adjoining the same.

2. When land has been designated by the board of trustees of any such church as a suitable location for such burying grounds, or enlargement of existing grounds, if the owner, or owners refuse to sell the same or demand a price there for which is deemed by the board unreasonable, or the owner is a *feme covert*, a minor or *non compos mentis* or non resident, after ten days notice served upon such owner or owners, or the owner or owners thereof being non residents, by publication for four weeks in some newspaper published in the county, or if there be no newspaper published in the county, by posting the same for four weeks at the front door of the court house and three other public places in the county, one of which shall be on the land intended to be

used for such burying ground, the board may petition the Circuit Court of their county to have such lot of ground condemned for said use and the Court shall thereupon appoint a jury of viewers to consist of five freeholders, persons not resident in the vicinity of said land or members of said church or related to the owner of said land, who being duly sworn or affirmed faithfully and impartially to enquire of the value of the land, shall assess its value and make due return of such assessment to said Court, and the amount thereof being paid or tendered to the owner or owners of the land in question, or disposed of as the Court may direct, the said board may enter upon and use such land for burying purposes, and the decree of the Court in this behalf shall be recorded by such board of trustees in the Recorder's office.

3. Nothing in this act shall be so construed as to permit a board of trustees of church property located in a city or incorporated town condemning land within the corporate limits of such city or town, but such board may have the benefit of this act and condemn land one mile from such corporate limits.

House Bill No. 7.

A BILL to amend the Act passed March 1, 1864, entitled "An Act to exempt a certain amount of property from execution and other process."

Be it enacted by the Legislature of West Virginia:

1. That the Act passed March first, eighteen hundred and sixty-four, entitled "An Act to exempt a certain amount of property from execution or other process," shall not apply to debts created for the rent of any real or personal property; but all such rents due or in arrear may hereafter be sued for and collected in the same manner and to the same extent as if said act had not been passed.

House Bill No. 9.

A BILL to amend and re-enact chapter 14, of the acts of 1866, entitled "An Act to amend and re-enact the 1st section of an act entitled An Act providing for issuing grants for lands in certain cases," passed December 9th, 1863.

Be it enacted by the Legislature of West Virginia:

That Chapter 14, of the acts of 1866, entitled an act to amend and re-enact the first Section of an act entitled "An Act providing for issuing grants for land in certain cases," passed the ninth day of December, eighteen hundred and sixty-three, shall be amended and re-enacted to read as follows:

1. All entries made before the twentieth day of June eighteen hundred and sixty three, under the provisions of chapter one hundred and twelve of the Code of Virginia, *second edition*, which were in force on that day, and which have not heretofore been surveyed, shall be surveyed according to the provisions of said chapter of said Code. All plats and certificates of such surveys, whether heretofore or hereafter made; plats and certificates of all other surveys in force on said twentieth day of June, eighteen hundred and sixty-three, and copies of all plats and certificates of surveys heretofore filed in the land office at Richmond, on which no grants have issued, and been delivered to the parties to whom issued, shall, before the ninth day of December, eighteen hundred

and sixty-nine, be returned by those for whom the surveys are made, to the Secretary of the State, and they may demand receipts from him for the same; and no grant shall issue for any land until the conditions imposed by section forty-three of the said chapter of the said Code be complied with by the person applying for the grants.

2. For all services rendered under this act by the Secretary, he shall be entitled to the same fees that the register of the land office of the State of Virginia would be entitled to for like service, which fees shall be in consideration of his services in completing the grant. Fees, heretofore paid for like services under chapter 134, acts of 1863 shall be the compensation of the Secretary of the State for the additional duties imposed upon him by said chapter 134, but in all cases in which plats and certificates of surveys have been returned to the land office at Richmond and all the fees there paid, the Secretary shall not charge or receive any further fees.

House Bill No. 10.

A BILL to repeal all laws authorizing Suits and other Judicial proceedings to be brought and prosecuted in counties not prescribed in Chapter 169 of the Code of Virginia, 2d edition.

WHEREAS, During the late rebellion, several statutes were passed authorizing suits to be brought and prosecuted in counties other than those prescribed by the one hundred and sixty-ninth section of the Code of Virginia, second edition; and whereas, the necessity for all such laws has now ceased, therefore,

Be it enacted by the Legislature of West Virginia:

1. That all acts and parts of acts passed since the 17th day of April, 1861, authorizing suits and other judical proceedings to be brought and prosecuted in counties other than those prescribed in chapter one hundred and sixty-nine of the Code of Virginia, second edition, be and the came are hereby repealed.

House Bill No. 11.

A BILL constituting a certain part of the bank of the Ohio River, within Jackson county, a lawful fence.

Be it enacted by the Legislature of West Virginia:

1. So much of the bank of the Ohio River, within the county of Jackson, as is included within the following boundary, to wit: Beginning at E. Beatty's upper line, below the town of Murrayville, near the mouth of the first run, thence down the river to the lower line of James and Bennet Wheaton's lands, below the mouth of Carr's run, is hereby declared a lawful fence.

2. All acts or parts of acts inconcistent herewith are hereby repealed.

House Bill No. 12.

A BILL constituting a certain part of the bank of the Ohio River, within Jackson county, a lawful fence.

Be it enacted by the Legislature of West Virginia:

1. So much of the bank of the Ohio River as is included in the following boundary, to wit: Beginning at the mouth of Cedar run in Jackson, county thence up the river to the mouth of Big Sand creek, is hereby declared a lawful fence.

2. All acts or parts of acts inconsistent herewith are hereby repealed.

House Bill No. 13.

A BILL concerning the rate of interest

Be it enacted by the Legislature of West Virginia:

1. When there is no agreement for a different rate of interest of money, the same shall continue to be at the rate of six dollars upon one hundred dollars for a year, and at the same rate for a greater or less sum, and for a longer or shorter time.

2. It shall be lawful to contract to pay or reserve discount at any rate, and to contract for payment and receipt of any rate of interest not exceeding ten per centum per annum; *provided*, that no greater rate of interest than six per centum per annum shall be recovered in any action, except when the agreement to pay such greater rate of interest is in writing.

3. This act shall not affect any existing contract or action pending, or existing right of action, and shall take effect on the first day of July next.

4. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Substitute for House Bill No. 13.

"A BILL regulating the rate of interest."

Proposed by the Judiciary Committee of the House of Delegates, February 3, 1868, which was, on motion of Mr. Blair, ordered to be printed.

Be it enacted by the Legislature of West Virginia:

1. The legal interest on money loaned and debts contracted, shall continue to be at the rate of six per centum per annum upon the amount thereof, where no other rate of interest is agreed upon by the parties.

2. It shall be lawful for any person or corporation to loan or borrow money, or contract debts, at any rate of interest, not exceeding ten per centum per annum, and the rate of interest as agreed upon shall be inserted in the note or other writing executed for the payment thereof.

3. All contracts and assurances made directly or indirectly for the loan or forbearance of money, or other thing, at a greater rate of interest than ten per centum per annum, except where such greater rate is now allowed by law, shall be void as to any excess of interest agreed to be paid above that rate.

4. Sections four, five, and eleven, of chapter one hundred and

forty-one of the Code of Virginia, second edition, are hereby repealed.

5. This act shall not affect any existing contract or right of action, but all such contracts and rights of actions shall be governed by the law in force on the day before the passage of this act.

6. This act shall take effect on the first day of next.

House Bill No. 14.

A BILL authorizing the citizens of Clark and Coal townships, Harrison County, to levy a tax to refund certain money to William S. Robinson.

Be it enacted by the Legislature of West Virginia:

1. The citizens of the townships of Clark and Coal in the county of Harrison, are hereby authorized in the manner prescribed by law, to levy and collect a tax on the property of said townships, sufficient to refund to William S. Robinson of said Clark township, the sum of Four hundred dollars, expended by him in recruiting men to fill the quota of the thirty-seventh sub-district of West Virginia, composed of said townships, under the call of the President for volunteers to re-enforce the armies of the United States.

House Bill No. 15.

A BILL refunding certain taxes to John Brady, Sr.

Be it enacted by the Legislature of West Virginia:

1. The Auditor is hereby directed to issue his warrant for four-
2 teen dollars, in favor of John Brady Sr., being the amount of tax
3 paid by him on an improper assessment in Brooke county of four
4 tracts of land lying in Brooke county and assessed therein.

House Bill No. 16.

A BILL to reduce taxes.

Be it enacted by the Legislature of West Virginia:

1. The taxes on the persons and subjects required by law to be listed or assessed shall be yearly as follows:

On tracts of land and lots with the improvements not exempted from taxation, twenty cents on every hundred dollars value thereof.

On all the personal property, money and credits required by law to be listed and not exempt from taxation, twenty cents on every hundred dollars value thereof.

2. There shall also be levied yearly on the assessed valuation of real and personal property, ten cents on every hundred dollars, for the purpose of free schools, being the tax mentioned in the thirty-seventh section of the act passed December tenth, eighteen hundred and sixty-three, entitled "An Act providing for the establishment of a system of Free Schools."

On every white male inhabitant who has attained the age of twenty-one years, one dollar.

On every male free negro who has attained the age of twenty-one years, one dollar.

3. Chapter 26 of the acts of 1864, is hereby repealed.

House Bill No. 17.

A BILL to authorize George Hardman to construct and maintain a Railroad with branches from Franklin Iron Works to the Baltimore and Ohio Railroad in the county of Preston.

Be it enacted by the Legislature of West Virginia:

1. That George Hardman his heirs, or assigns, be and are hereby authorized to locate and construct a railroad from Franklin Iron Works in the county of Preston, to a point on the Baltimore and Ohio railroad at or near the mouth of Racoon creek in the said county, to be known and called the Iron Valley Railroad, and to locate and construct so may branches from said road as he may desire not exceeding five miles each in length. The land for the said road and branches not to exceed thirty feet in width, exclusive of the slopes of cuts and embankments.

2. And for the purpose of enabling the said Geo. Hardman to obtain the title for the land required for the said road and branches, and the materials from the lands adjacent thereto proper and necessary for their construction and repair, he, the said George Hardman or his heirs and assigns shall be and are hereby anthorized to take proceedings the same as are prescribed in the fifty-sixth chapter of the Code of Virginia in relation to corpor-

ations generally; and the said road and branches shall be subject to all provisions and liabilities and entitled to all the benefits prescribed by the said code, second edition, establishing general regulations for the incorporation of railroad companies, especially such as are prescribed and specified in chapters 56, 57 and 61 thereof, and all other general laws now in force relating to railway companies, except so far as the provisions of this act are or may be inconsistent therewith.

3. This act shall take effect from and after its passage.

House Bill No. 18.

A BILL constituting certain parts of the banks of Eighteen Mile creek, within Putnam county, a lawful fence.

Be it enacted by the Legislature of West Virginia:

1. So much of the banks of Eighteen Mile creek within the county of Putnam, as is included within the following boundary, to-wit: Beginning at Oldaker's mill dam and running to the head of the mill pond at low water, is hereby declared to be a lawful fence.

House Bill No. 19.

A BILL relating to the inspection of Salt.

Be it enacted by the Legislature of West Virginia:

1. That an act entitled "An Act to regulate the inspection of salt in the county of Kanawha," passed on the 16th day of January, 1862, by the General Assembly of the re-organized government of Virginia be, and the same is hereby repealed.

2. This act is to take effect from the first day of July, 1868.

House Bill No. 20.

A BILL establishing a permanent seat of government for this State.

Be it enacted by the Legislature of West Virginia:

That the permanent seat of government of this State shall be established at in the county of upon lands conveyed to this State for that purpose by by deed bearing date the day of 186 .

House Bill No. 21.

A BILL to amend section 1, of chapter 101, of the Code of Virginia, second edition.

Be it enacted by the Legislature of West Virginia:

The first section of chapter one hundred and one, code of Virginia, second edition, is hereby amended and re-enacted so as to read as follows:

1. No person shall kill any deer, or run any deer with dogs with the intention of destroying the same, from the first day of January until the first day of September next following in each year. Any one violating this law shall be fined thirty dollars, to be recovered before any justice for the county in which the offence was committed, or the offender may be found. Any person found with any recently killed venison or fresh deer skins in his possession, during the time of which the killing of deer is prohibited by this act, such possession shall be *prima facie* evidence of the killing of the same; provided, that this section shall not apply to deer killing in any park.

House Bill No. 22.

A BILL to restore to the docket of the Circuit Court of Harrison county the case of James M. Jackson against John Brake's heirs.

WHEREAS, A suit was instituted in the Circuit Court of the county of Harrison by James M. Jackson, one of the heirs of John Brake, deceased, against the other heirs of the said Brake, to sell and divide among the said heirs the proceeds of the sale of a tract of one hundred and forty-nine acres of land of which he died seized, situate in the county of Harrison; and such proceedings were had in said cause, that at the fall term, eighteen hundred and forty-four, of said court, a decree was pronounced directing a sale of said land, which was made for the sum of eight hundred and one dollars, which was duly reported to and confirmed by said court, and the proceeds directed to be paid into the hands of the receiver of the court, and the case referred to a commissioner to ascertain the advancements made by the said Brake to his heirs, and how the said fund should be distributed among them, which report was never made, but the said sum went into the hands of the receiver of said court, and the court, at its fall term, eighteen hundred and sixty-two, struck the said case from the docket, upon the ground that

there had been no order or proceedings had therein for more than seven years, but to continue it, leaving said fund undisposed of and the parties without remedy. Therefore,

Be it enacted by the Legislature of West Virginia:

1. That the said cause, upon the motion of any of the parties interested therein, be restored to the said docket, and further proceeded in by the said court notwithstanding more than one year has elapsed since the date of said order.

House Bill No. 23.

A BILL to refund the taxes collected from soldiers for bounty purposes.

Be it enacted by the Legislature of West Virginia:

1. All taxes heretofore collected from any person who volunteered into the service of the United States, prior to the first day of January, eighteen hundred and sixty-four; and who has been, or may hereafter be honorably discharged therefrom; or from the widows or heirs of such soldier, for county purposes, during the years 1866 and 1867—shall be refunded, upon proper application to the Board of Supervisors of the county wherein such taxes were paid.

House Bill No. 24.

A BILL authorizing Alpheus F. Haymond of the county of Marion to practice law in the courts of this State without taking the oath prescribed by Chapter 30 of the acts of 1866.

Be it enacted by the Legislature of West Virginia :

1. That Alpheus F. Haymond of the county of Marion, late a practicing attorney in this State, be, and he is hereby exempted from the provisions of the act of the Legislature, passed on the 14th day of February, 1866, entitled "An Act in relation to the oaths of Attorneys at Law," and he is hereby authorized to practice law in all the courts in this State without taking the oath prescribed by said act.

2. The Legislature reserves the right to repeal this act at any time when in their descretion they may deem it proper to do so.

House Bill No. 25.

A BILL to incorporate Ravenswood Lodge No. 15, of the Independent Order of Odd Fellows, in the town of Ravenswood.

Be it enacted by the Legislature of West Virginia:

1. That S. M. Haworth, Benj. D. Williams, Dryden Parker, Chas. Harpold, and C. M. West, and such others as are now regularly associated with them, and such as may hereafter become regularly associated with them, are hereby created a body politic and corporate, under the name and style of "Ravenswood Lodge No. 15, of the Independent Order of Odd Fellows," in the town of Ravenswood, in Jackson county; and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, and may purchase sell and hold to them and their successors, for the charitable and benevolent purpose of said lodge, not exceeding two full lots of ground in said town of Ravenswood, and not exceeding six acres of land in the county of Jackson; and also such personal property and moneys necessary for the purpose aforesaid

2. The said lodge shall be authorized to make all needful laws and regulations for the management of their property as a majority of said lodge may prescribe.

3. This act may be altered, amended or repealed, at the pleasure of the Legislature.

House Bill No. 26.

A BILL authorizing Alfred A. Hayer to build a mill dam across Spruce Fork of Little Coal River.

Be it enacted by the Legislature of West Virginia:

1. Alfred A. Hayer is hereby permitted to construct a saw and grist mill dam six feet high above low water mark across the Spruce Fork of Little Coal river, at or near the lower end of Hayer's land.

2. The said Alfred A. Hayer, as well as his successors shall be held responsible for any damages resulting from the building of said dam.

House Bill No. 27.

A BILL for the relief of Lorentz Kidwell and George Heckhert.

Be it enacted by the Legislature of West Virginia:

1. The Auditor is hereby directed to issue his warrant upon the Treasury for one hundred and forty-eight dollars and five cents, in favor of Lorentz Kidwell and George Heckhert, late contractors on the Parkersburg and Staunton Turnpike, it being the sum appearing to be due them upon settlement with the Board of Public Works.

House Bill No. 28.

A BILL for the collection of taxes.

Be it enacted by the Legislature of West Virginia:

1. All the taxes assessed in any township, except the road tax, shall be collected by the township treasurer thereof, who may make distress therefor after the first day of July, if he shall have received a copy of the assessor's books, and when the tax payer is about to remove the property out of the township.

2. The treasurer may appoint a deputy, and take from him a bond with security for the faithful performance of the duties of his office, but said treasurer and his sureties shall be responsible for the acts of such deputy.

3. The treasurer shall attend in person, or by his deputy, at four of the most public places in the township, which shall include the places of voting, on the first Monday, and the Tuesday, Wednesday and Thursday next following the said first Monday in December, in each year; spending one of said days at each place, from eight o'clock in the forenoon till six o'clock in the afternoon, to receive taxes, having first given not less than twenty days notice of the said times and places of such meetings, by posting printed notices at not less than ten public places in the township. And on all taxes that shall be paid in full, on or before the last of said days, a discount of two and a half per centum shall be made, to be deducted

from the treasurer's commissions, but no discount shall be made after the expiration of said days.

4. The treasurer shall receive compensation for collecting and paying over, as required by law, the taxes with which he is chargeable, as follows: On the State taxes, a commission of six per centum; on the county taxes, a commission of not exceeding five and a half per centum, to be regulated by the board of supervisors; on the township taxes for school and building purposes, a commission of not exceeding five per centum, to be regulated by the board of education; and on the township taxes for ordinary purposes, a commission of six per centum.

5. No distress shall be made for taxes or levies where the treasurer has had more than one year to collect the same, unless it be for taxes returned delinquent and sent out by the Auditor for collection, as provided by law; but a treasurer of a former term may, notwithstanding the expiration of his term of office, have the same powers of distress and sale as he possessed before said term expired, and which right of distress and sale shall continue for the term of one year from the time such right accrued.

6. Any goods or chattels in the township belonging to the person or estate assessed with taxes, may be distrained therefor by the treasurer, after the second Monday in December, when he shall proceed, without delay, to collect the taxes yet unpaid.

7. The goods and chattels of the tenant or other person in possession, claiming under the party or estate assessed with taxes on land, may be distrained, if found on the premises. But, when taxes

are assessed wholly to one person on a tract or lot of land, part of which has become the freehold of another by a title recorded before the commencement of the year for which such taxes are assessed, the property belonging to the owner of that part shall not be distrained for more than a due proportion of said taxes.

8. Where taxes are assessed on a tract of land lying partly in one county and partly in another, or partly in one township and partly in another, the treasurer of the township in which such taxes are assessed may distrain on the part of the land lying in the other county or township, in the same manner as if such part were in his own county and township.

9. No deed of trust or mortgage upon goods or chattels shall prevent the same from being distrained and sold for taxes assessed against the grantor in such deed, while such goods and chattels remain in the grantor's possession, nor shall any such deed prevent the goods and chattels conveyed from being distrained and sold for taxes assessed thereon, no matter in whose possession they may be found.

10. When the officer cannot find sufficient goods or chattels to distrain for taxes, any person indebted to or having in his hands estate of the party assessed with such taxes, may be applied to for payment thereof out of such debt or estate, and a payment by such person of such taxes, either in whole or in part, shall entitle him to a credit for so much on account of such debt or estate. If the person applied to do not pay so much as it may seem to the officer ought to be recovered on account of the debt or estate in his hands,

the officer shall, if the sum due for such taxes do not exceed one hundred dollars, procure from a justice a summons directing such person to appear before some justice at such time and place as may seem reasonable; and if the sum due exceed one hundred dollars, he shall procure from the clerk of the circuit court of the county, a summons directing such person to appear before the circuit for the county on the first day of the next term thereof. And from the time of the service of any such summons, the said taxes shall constitute a lien on the debt so due from such person, or on the estate in his hands.

11. If such summons be returned executed, and the person so summoned do not appear, judgment shall be entered against him for the sum due for such taxes and costs.

12. If the person so summoned appear, he shall be interrogated on oath, and such evidence may be heard as shall be adduced, and such judgment shall be rendered as upon the whole case may seem proper.

13. A tenent from whom payment shall be obtained by distress or othewise, of taxes due from a person under whom he holds, shall have credit for the same against such person out of the rents he may owe him, except where the tenant is bound to pay such tax by an express contract with such person.

14. Where a tax is paid by a fiduciary on the principal, interest or profits of money of an estate laid out or invested, either under an order of court or otherwise, the tax shall be refunded out of such estate.

15. The treasurer, after ascertaining which of the taxes assessed in his township cannot be collected, shall, on or before the first

Monday in April next succeeding the year for which such taxes were assessed, make out alphabetical lists of three classes: First, a list of property on the assessor's land book improperly placed thereon, or not ascertainable, with the amount of taxes charged on such property, which shall be in the following form:

"*List of Property on the Assessor's Land Book for* ———— *Township, County of* ————, *improperly placed thereon, or not ascertainable, for the year* ——.

Name of person charged with tax.	Residence.	Estate held.	Quantity of Land.	Description and locaaion of Land.	Distance and Bearing from Court House.	State tax for State purposes.	State tax for School purposes.	County Tax.	Township School Tax.	Township Building Fund.	Ordinary Township Tax.	Why returned Delinquent.

I, A. B., Treasurer of ———— township, in the county of ————, do swear, that the foregoing list is, I verily believe, correct and just; that I have received no part of the taxes for which the real estate therein mentioned is returned delinquent, and that I have used due diligence to find property within my township liable to distress for the said taxes, but have found none.

A——. B——,

Treasurer of ———— *Township.*"

Secondly, A list of other real estate which is delinquent for the non-payment of taxes thereon, which shall be in the same form, and with the same oath made and subscribed, as in the above first mentioned list, except that the heading shall read thus:

"List of Real Estate in ——— township, county of ———, delinquent for the non-payment of taxes thereon for the year ———."

Thirdly, A list of such of the taxes so assessed, other than real estate, as he is unable to collect, which shall be in the following form:

"*List of Persons and Property, other than Real Estate, in ——— Township, County of ———, Delinquent for the Non-Payment of Taxes thereon, for the year ——.*

Name of Person charged with Taxes.	No. of Capitations.	Total value of personal property charged.	State Tax for State purposes.	State Tax for School purposes.	County Tax.	Township School Tax.	Township Building Fund.	Ordinary Township Tax.	Why returned delinquent.

"I, A. B., Treasurer of ——— township, in the county of ———, do swear, that the foregoing list is, I verily believe, correct and just; that I have received no part of the taxes for which the persons and property therein mentioned are returned delinquent, and that I have

used due diligence to find property within my township liable to distress for the said taxes, but have found none.

A——. B——.,

Treasurer of ——— Township."

16. The oaths mentioned in the preceding section shall be subscribed and taken before some person authorized by law to administer oaths, who shall certify the same.

17. The list mentioned thirdly, in Section 15, shall be published in a weekly newspaper, if one is published in the county, for four weeks, commencing within one month from its examination by the Board of Supervisors; but if no paper is published in the county, the Treasurer shall cause a copy of such list to be posted at each voting place in the township. When published in a newspaper, the expense thereof shall be paid by the county.

18. The Board of Supervisors of every county shall hold a meeting on the first Monday in April each year, at which time the Treasurer shall present the three lists mentioned in the fifteenth section, for the examination of said Board. The Board having become satisfied of the correctness of said lists, or having corrected them, if erroneous, shall direct their clerk to certify copies thereof, with the amount of State taxes, to the Auditor, and a copy of the first mentioned to the Assessor, who shall, in making his next land book, leave off all the tracts mentioned in said list. The original lists shall be preserved by the clerk in his office. After the said copies are so certified, the Treasurer shall not receive any of the taxes mentioned in said lists, but the State tax may be paid into the

Treasury as now provided by law, and all other taxes therein mentioned may be paid to the credit of the county, as delinquent county taxes on lands are now authorized to be paid.

19. Any officer who shall return in any such list, real estate, persons or property, as delinquent for non-payment of taxes, when such taxes, or any part thereof, shall have been actually received by him, shall forfeit, if the return was by design, ten times the amount of taxes so actually received, and if the return was by mistake, twice the amount; one-half of which forfeiture shall in each case be to the State, and the other half to the persons charged with such taxes. And any such officer who shall return in such list, any real estate, persons or property as delinquent, when he had either found, or might have found, sufficient property within his township liable to distress for the taxes for which such real estate, persons or property are returned delinquent, shall forfeit to the State a sum equal to five times the amount of said taxes.

20. The copies of the lists directed to be certified to the Auditor, shall be placed by the clerk of the Board of Supervisors in a sealed enclosure, and transmitted to that officer by mail or otherwise, on or before the twentieth day of April, upon the receipt of which, the Auditor shall credit the Treasurer with the amount of taxes mentioned in said lists.

21. A copy of the third list mentioned in the fifteenth section, shall be placed by the Auditor in the hands of the treasurer of any township for collection; within two years from the reception of such list by the Auditor, to be returned within one year thereafter, and

accounted for as other State taxes. Upon the receipt of such list from the Auditor, said Treasurer shall apply to the clerk of the Board of Supervisors, who shall furnish him with a copy of the delinquent county and township taxes pertaining to said list, which said Treasurer shall proceed to collect in the same manner as the State taxes in such list are collected, and shall account for the same as for other county taxes. His compensation shall not exceed fifteen per centum of the amount collected and paid over.

22. The State taxes assessed under the law providing for the assessment of taxes on persons and property, and collected under this act, shall be paid into the treasury on or before the first day of February next succeeding the year in which such taxes were assessed, save only that a treasurer, who may not have qualified, or who may not have received the books of the assessor before the first day of September, shall be allowed five months from his qualification, or the receipt of said books, to pay the same into the treasury.

23. In case of failure so to pay, the Auditor shall immediately publish notice of such failure in some newspaper at the seat of government, setting forth that on a certain day, within three months after such failure, he will file in the office of the circuit court of the county wherein is the seat of government, with the clerk thereof, an accurate account with which any such treasurer may be chargeable on account of such taxes; and thereupon, such clerk shall enter up a judgment against such treasurer for the amount wherewith he is so chargeable, with lawful interest thereon from the time of such

failure, until payment thereof and fifteen per centum damages in addition thereto, unless the Auditor shall recommend a reduction thereof; which judgment shall have the same validity, and be subject in all respects to the like proceedings thereon, as if it had been rendered by the court. But any person aggrieved by such judgment, may apply to the circuit court at the seat of government, within six months after it is so entered up, to set aside said judgment and try said cause. The court for good cause, may set aside such judgment, and proceed to try the case upon its merits, and affirm the same or render such judgment as it may consider proper. In any case of failure to pay, proceedings may be had according to the forty-second chapter of the Code of Virginia, second edition; only such proceedings shall be had in the circuit court at the seat of government of the State of West Virginia, and in the name thereof. And from the time a notice shall be served, under the said chapter, on any such treasurer, the property of such treasurer shall be bound for the payment of any judgment which may be rendered upon such proceeding, in the same manner that the property is bound under the third section of chapter one hundred and eighty-eight of the said Code, upon delivery of a *fieri facias* to a sheriff or other officer, and shall also operate as a lien on the real estate of such treasurer from the time of the service of such notice. The right of the State to proceed by notice or otherwise, against the sureties of such treasurer, shall not be effected thereby.

24. The treasurer shall be the collector of all licenses required under chapter one hundred and thirteen of the acts of eighteen

hundred and sixty three, and the lists authorized by section twenty-one of said chapter, to be delivered to the sheriff or collector, shall be delivered to the treasurer of the township wherein the person obtaining such license resides or does business, and such treasurer shall proceed to collect and account for the same as provided in said chapter.

25. The treasurer shall deliver to any person who shall pay any tax, a receipt therefor, either written or printed, in which shall be specified the number of capitations charged to such person; the total valuation of personal property; the number of acres of land, and the number of town lots, with the valuation of each separate tract or lot; and the taxes on the whole plainly set down and footed up, which shall be signed by said treasurer.

26. The treasurer shall receive in payment of taxes, any county order properly authenticated, which may be presented to him, and shall pay all such orders when demanded, if he has funds belonging to the county.

27. The treasurer shall, on or before the first day of March in each year, make a settlement of the county leavy with which he is chargeable, with a commissioner appointed by the Board of Supervisors for that purpose. Said treasurer shall deliver to said commissioner all the county orders which he has paid, and said commissioner shall deliver the same to the Board of Supervisors, with his report of said settlement. Within thirty days after such settlement, the treasurer shall pay whatever may be due from him to the county on such settlement to the county treasurer.

28. Every township treasurer shall, in lieu of all other bonds now required by law, before entering upon the duties of his office, give bond, with security to be approved by the Board of Supervisors of the county, conditioned according to law, and in a penalty of not less than five thousand nor more than ten thousand dollars; which bond shall be filed in the office of the clerk of the Board of Supervisors, who shall, within thirty days after such bond is filed, transmit a copy thereof to the Auditor.

29. There shall be elected on the fourth Thursday in May, 1868, and the same day in every second year thereafter, a township treasurer for every township in this State, whose term of office shall commence on the twentieth day of June next succeeding his election, and continue for two years, and until his successor shall be elected and qualified according to law.

30. The assessors, clerk of circuit court, clerk of the Board of Supervisors, sheriff, recorder, surveyor, commissioners for settling estates and commissioners in chancery, may place their fee bills in the hands of the different township treasurers of their county, to be collected and accounted for in the same manner that sheriffs have been heretofore required to collect and account for them; provided that such treasurer shall not be required to go out of his township to collect any such fees.

31. All acts and parts of acts inconsistent with the provisions of this act, are repealed when this act shall take effect.

32. This act shall be in force on and after the —— day of ——— 186—.

House Bill No. 29.

A BILL providing for the incorporation of Towns.

Be it enacted by the Legislature of West Virginia :

1. Any part of any township or townships, not included within any incorporated town or city, and containing a resident population of not less than two hundred persons, and if it shall include within its boundaries a territory of not less than one-half of one square mile in extent, may be incorporated as a town, under the provisions of this act.

2. The persons intending to make application for the incorporation of such town as hereinafter provided, shall cause an accurate survey and map of the territory intended to be embraced within the limits of such town, such survey to be made by a practical surveyor, which shall show the courses and distances of the boundaries thereof, and the quantity of land contained therein ; the accuracy of which survey and map shall be verified by the affidavit of such surveyor annexed thereto.

3. Such persons shall also cause an accurate census to be taken of the resident population of such territory as it may be on some day, not more than sixty days previous to the time of presenting such application to the court, as hereinafter provided ; which census shall exhibit the name of every head of a family residing within such territory on such day, and the number of persons then belonging to

every such family; and it shall be verified by the affidavit of the person taking the same annexed thereto.

4. Such servey, map and census, when completed and verified as aforesaid, shall be left at the residence or place of business, within such territory, of some person residing therein, and shall be subject to examination at all reasonable hours, by every person interested in such application, for the period of four weeks at least from the posting or first publication of the notice of such application as hereinafter provided.

5. The persons intending to make such application, shall give notice that they will apply, on some day therein specified, to the circuit court of the county in which such territory shall lie, or if it shall lie in more than one county, to such court in one of such counties to be named in such notice, for an order incorporating such territory as a town, by a name to be therein specified. Such notice shall describe the boundaries of such territory by courses and distances, and by specifying the township or townships in which it shall lie; and it shall state where such survey, map and census have been left for examination as aforesaid.

6. If there be a newspaper printed within such territory, such notice shall be printed therein once in each week for four successive weeks previous to the time specified therein for making such application; and if there shall be no such paper, such notice shall be posted in at least three of the most public places in such territory, for four weeks at least, before the time so specified therein.

7. Such application shall be by petition, subscribed by a majority of persons residing within such territory, who are entitled to vote for township officers in the township in which such territory lies, and setting forth the boundaries thereof, with their courses and distances, the quantity of land therein embraced according to such survey, and the resident population therein contained according to such census; such survey and map and the affidavit verifying the same, such census and the affidavit verifying the same, and affidavit that they were left and have been kept subject to examination as aforesaid, and a copy of such notice, with an affidavit thereto annexed, of posting or publishing the same as aforesaid, shall be annexed to such petition, otherwise it shall not be acted upon by the court; and it shall be presented at the time specified in such notice for presenting the same, or as soon thereafter as the applicants can be conveniently heard in respect thereto.

8. When such petition shall be presented as aforesaid, the court shall hear all the parties interested therein, who shall appear and ask to be heard. It may adjourn the hearing from time to time; it may direct a re-survey to be made of such territory, or that such census shall be again taken, or both; it may appoint a person to make such re-survey and to take such census again; and it may refer any question that may arise in respect to such application, to three disinterested commissioners, to be appointed by such court, to examine and report thereon, who, after taking the oath prescribed for officers, shall examine and report in respect to such matters as the court by its order shall direct.

9. If such court, after hearing the parties, shall be satisfied that such petition contains the genuine signatures of a majority of the legal voters residing in such territory; that such survey or re-survey, and the census first or subsequently taken, are correct; that all the requirements of this act, in respect to the application, have been complied with, and that the lands embraced in such territory ought justly to be included in the corporation sought to be created, and that the interests of the inhabitants of such territory will be promoted by such incorporation, it shall make an order declaring that such territory, the boundaries of which shall be therein set forth by courses and distances, and may be enlarged or diminished by such court from the boundaries specified in such application, as justice may require, shall be an incorporated town by the name specified in such application; and in such order it shall appoint three persons from among the legal voters residing in such territory, who shall act as inspectors of election for the purpose of conducting the first election for officers of said town, as hereinafter provided.

10. The first election for town officers shall be held within sixty days from the date of the order incorporating such town, of which the inspectors of election appointed in such order, shall cause notice to be given of the time and place of holding such election, which notice shall specify the officers to be voted for, and shall be printed in a newspaper for four weeks next preceding the day appointed for such election, if one be published in such town, and if none be published therein, copies thereof shall be posted in at least three of the most public places in such town for four weeks next preceding such election.

11. Such inspectors, after taking the oath prescribed for township officers, shall preside and act as inspectors of such election, and all the laws applicable to the election of township officers, shall apply to such election, and all the proceedings thereat, if not inconsistent with the provisions of this act, and shall, within ten days after such election, grant a certificate to the persons elected, which shall be recorded among the records of such town.

12. The municipal authorities of such town shall be a mayor, a recorder and five councilmen, who, together, shall form a common council.

13. The mayor, recorder and councilmen of such town, so soon as they have been elected and qualified as provided, shall be a body politic and corporate, by the name of "The Town of ————," and shall have perpetual succession and a common seal; and by that name may sue and be sued, implead and be impleaded; may purchase and hold real estate necessary to enable them the better to discharge their duties, and needful for the good order, government and welfare of said town. All the corporate powers of such corporation shall be exercised by said council or under their authority, except where otherwise provided.

14. There shall be a town sergeant, who shall be the treasurer also, and an assessor appointed by the council, to continue in office at its pleasure, and perform the duties respectively as herein prescribed, or as may be required by the council.

15. The officers first elected in such town shall hold their offices until their successors are elected and qualified.

16. After the first election of officers in such town, they shall be elected on every first Thursday of June, at such place in the town, and under such supervison, rules and regulations, not inconsistent with the laws regulating township elections, as the council may prescribe.

17. Every person elected or appointed to an office in such town, shall, within ten days after his election or appointment, and before he shall enter upon the duties of his office, take and subscribe the oath of office prescribed for township officers; which may be done before any person authorized by law to administer oaths, or before the mayor or recorder of such town, which oath, with the certificate of the officer administering the same, shall be filed with the recorder of the town, and recorded by him.

18. All persons, residents of such town, and entitled to vote for township officers therein, shall be entitled to vote for mayor, recorder and councilmen.

19. When a vacancy shall occur from any cause, in the office of mayor, recorder, or in the council, the vacancy shall be filled by appointment by the council from among the citizens of the town eligible under this act.

20. The mayor, recorder and councilmen must be freeholders in such town, and entitled to vote for members of its common council.

21. Whenever two or more persons shall receive an equal number of votes for the same office, the persons under whose supervision the election is held shall decide by lot which of them shall be returned as elected, and shall make their return accordingly.

22. All contested elections shall be heard and decided by the council.

23. Whenever any three of the newly elected council shall have been qualified, they shall enter upon the duties of their said office, and supercede the former councilmen.

24. The council shall be presided over by the mayor at its meeting; or, in his absence, by the recorder; or, in the absence of both mayor and recorder, by one of the councilmen selected by a majority of the council present; and a majority of the council shall be necessary to form a quorum for the transaction of business.

25. The council shall cause to be kept, in a well-bound book, an accurate record of all its proceedings, by-laws, acts, orders and resolutions, which shall be fully indexed, and open to the inspection of any one who is required to pay taxes to such town.

26. At each meeting of the council the proceedings of the last meeting shall be read, and corrected, if erroneous, and signed by the presiding officer for the time being. Upon the call of any member, the yeas and nays on any question shall be taken and recorded in the journal.

27. The mayor and recorder shall have votes as members of the council, and in case of a tie, the presiding officer for the time being shall have the casting vote.

28. The council of such town shall have power therein to lay off, close, open, alter, curb, pave, and keep in good repair, roads, streets, alleys, sidewalks, crosswalks, drains and gutters for the public,

and to improve and light the same, and have them kept free from obstructions on or over them; to regulate the width of side-walks on the streets, and to order the sidewalks, footways and gutters to be curbed and paved and kept in good order, free and clean, by the owners or occupants thereof, or of the real property next adjacent thereto; to establish and regulate markets; to prescribe the times of holding the same; to prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome, to prevent hogs, cattle, horses, sheep and other animals and fowls of all kinds from going at large in such town; to protect places of divine worship in and about the premises where held; to abate, or cause to be abated, anything which, in the opinion of a majority of the whole council, shall be a nuisance; to regulate the keeping of gunpowder and other combustibles; to provide, in or near the town, places for the burial of the dead, and to regulate interments therein; to provide for the regular building of houses or other structures, and for the making of division fences by the owners of adjacent premises, and the drainage of lots by proper drains and ditches; to make regulations for guarding against danger or damage by fires; to protect the persons and property of the citizens of such town, and to preserve peace and good order therein, and for this purpose to appoint, when necessary, a police force to assist the sergeant in the discharge of his duties; to prescribe the powers and define the duties of the officers appointed by the council, fix their terms of service and compensation, require and take from them bonds, when deemed necessary, payable to such town in its corporate name, with

such sureties and in such penalty as the council may see fit, conditioned for the faithful discharge of their duties; to erect, or authorize or prohibit the erection of, gas works or water works in the town; to prevent injury to or pollution of the same, or to the water or healthfulness of the town; to regulate and provide for the weighing of hay, coal and other articles sold or for sale in the town, and to provide a revenue for the town and appropriate the same to its expenses; to provide for the annual assessment of taxable property therein; to adopt rules for the transaction of business and the government and regulation of its own body.

29. To carry into effect these enumerated powers and all others conferred upon such town or its council, in this or any future act of the Legislature of this State, the council shall have power to make and pass all needful orders, by-laws, ordinances, resolutions, rules and regulations, not contrary to the Constitution and laws of this State; and to prescribe, impose and enact reasonable fines, penalties and imprisonment in the county jail for a term not exceeding thirty days, for violation thereof. Such fines, penalties and imprisonment shall be recovered and enforced under the judgment of the mayor of such town, or the person lawfully exercising his functions.

30. The council shall cause to be annually made up and entered upon its journal, an accurate estimate of all sums which are, or may become lawfully chargeable on such town, and which ought to be paid within one year; and it shall order a town levy of so much as may, in its opinion, be necessary to pay the same.

31. The levy so ordered shall be upon all real estate and personal property within such township, subject to State or county taxes; which tax shall not exceed one dollar on every hundred dollars of the value thereof.

32. The council may require from every person entitled to vote for officers of the town, not exceeding two days work in any one year, to be performed on the streets or alleys of such town, as such council may direct; provided such person may in lieu of such work, pay to the sergeant of the town one dollar and fifty cents, which shall be in full of every days work so required, which money shall be expended as other monies belonging to the town.

33. The council may cause to be assessed and collected, a tax on dogs not exceeding two dollars on each dog for any one year in said town.

34. Whenever anything for which a State license is required is to be done within such town, the council may require a town license therefor, and may impose a tax thereon for the use of the town. But no license to sell strong or spirituous liquors, or wine, beer, ale, porter, or drinks of like nature, within the town, shall be granted by the Board of Supervisors of the county in which any portion of such town may lie, unless the person applying therefor shall produce to such Board of Supervisors, the certificate of the council of such town of its consent to the granting of such license. The council may require from a person so licensed, a bond with sureties, payable to such town, in such penalty and with such condition as it may think proper, and may revoke such license at any time, if the condition of said bond be broken.

35. If the owner or occupant of any side-walk, foot-way or gutter in such town, or of the real property next adjacent thereto, shall fail or refuse to curb, pave or keep the same clean, in the manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the town, and to assess the amount of such expense upon such owner or occupant, and the same may be collected by the sergeant in the manner herein provided for the collection of the town taxes.

36. It shall be the duty of the sergeant to collect the town taxes, fines, levies and assessments, and in case the same are not paid within one month after they are placed in his hands for collection, he may distrain and sell therefor in like manner as the officer collecting the State taxes may distrain therefor, and he shall have, in all other respects, the same power to enforce the payment and collection thereof. And the said sergeant shall have all the powers, rights and privileges within the corporate limits of such town in regard to the arrest of persons, the collection of claims, and the execution and return of process, that can be legally exercised by the constable of a township within the same, and he shall be entitled to the same compensation therefor, and he and his sureties shall be liable to all the fines, penalties and forfeitures that a constable of a township is liable to, for any failure or dereliction in said office, to be recovered in the same manner and in the same courts that said fines, penalties and forfeitures are now recovered against such constable. The sergeant shall, before entering upon the duties of his office, execute a bond, conditioned according to law, with surety

satisfactory to the council, payable to the town, in such penalty not less than one thousand dollars, as the council may prescribe.

37. There shall be a lien on real estate within such town for the town taxes assessed thereon, and for all other assessments, fines and penalties assessed or imposed upon the owners thereof by the authorities of such town, from the time the same are so assessed or imposed; which shall have priority over all other liens, except the lien for taxes due the State, county and township, and may be enforced by the council in the same manner now provided by law for the enforcement of the lien for county taxes.

38. It shall be the duty of the sergeant, at least once in six months during his continuance in office, and oftener, if required by the council, to render an account of the taxes, fines, penalties, assessments and other claims in his hands for collection, and return a list of such as he shall not have been able to collect, by reason of insolvency, removal, or other cause; to which list he shall make an affidavit that he has used due diligence to collect the same, but has been unable to do so; and if the council shall be satisfied of the correctness of said list, it shall allow the sergeant a credit for said claims. He shall receive for his services in the collection of taxes and assessments, a compensation, to be fixed by the council, of not exceeding five per centum on the amount duly collected and accounted for. He shall pay any money in his hands, belonging to the town, upon the order of the council.

39. If the sergeant shall fail to collect, account for, and pay over all or any of the moneys with which he may be chargeable, belong-

ing to the town, according to the conditions of his bond and the orders of the council, it shall be lawful for the council to recover the same by motion, in the corporate name of the town, in the circuit court of the county in which such town is situated; or, where the sum does not exceed one hundred dollars, before a justice of the township in which such town is situated, against the sergeant and his sureties, or any or either of them, or his or their executors or administrators, on giving ten days notice of such motion.

40. The mayor shall be the chief executive officer of the town. He shall take care that the orders, by-laws, ordinances, acts and resolutions of the council are faithfully executed. He shall be *ex officio* a justice and conservator of the peace within the town, and shall, within the same, possess and exercise all the powers and duties vested by law in a justice of a township, except that he shall have no jurisdiction as such in civil cases. He shall have control of the police of the town, and may appoint special police officers whenever he deems it necessary; and it shall be his duty especially to see that the peace and good order of the town are preserved, and that persons and property therein are protected, and to this end he may cause the arrest and detention of all riotous and disorderly persons in the town before issuing his warrant therefor. He shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment, he may commit the party in default to the jail of the county in which such town is situated, until the fine or penalty of and costs shall be paid; but the term of imprisonment

in such case shall not exceed thirty days. He shall, from time to time, recommend to the council such measures as he may deem needful for the welfare of the town. He may receive a compensation for his services, to be fixed by the council, which shall not be increased nor diminished during the term for which he shall have been elected.

41. It shall be the duty of the recorder to keep the journal of the proceedings of the council, and have charge of and preserve the records of the town. In the absence from the town, or sickness of the mayor, or during any vacancy in the office of mayor, he shall perform the duties of the mayor, and be invested with all his powers. He may receive a compensation for his services, to be fixed by the council, which shall not be increased nor diminished during the term for which he shall have been elected.

42. It shall be the duty of the assessor to make an assessment of the property within the town subject to taxation, substantially in the manner and form in which assessments are made by the assessor of the county, and to return the same to the council on or before the first day of July in each year, and for this purpose he shall have all the powers conferred by law on county assessors. He shall, when required by the council, list the number of dogs and sluts in the town, and the names of the persons owning the same, which list shall be returned to the council. He may receive a compensation for his services, to be fixed by the council, which shall not be increased or diminished during the term for which he shall have been elected.

43. The expense of maintaining any person committed to the county jail by the mayor, shall be paid by the town.

44. So long as the town shall keep in good repair its streets, alleys, walks and gutters, and provide for the comfortable maintenance of its paupers, and in good faith comply, through its lawful authorities, with the provisions of this act, no tax for the ordinary expenses of the county, or for maintaining the paupers of the county, or for road or bridge purposes, or for any township tax, except for school and school house purposes, shall be levied and collected by the county or township authorities from the persons and property within such town.

45. Any town failing to keep its streets, alleys, walks and gutters in good repair for one year, or shall fail to hold an election for town officers for any one year, shall forfeit the rights and privileges enumerated in this chapter.

46. All costs incurred in procuring the incorporation of any town shall be paid by such town.

House Bill No. 30.

A BILL establishing the lines of the townships of Greenbrier County.

Be it enacted by the Legislature of West Virginia:

1. The specific boundaries of the townships of the county of Greenbrier shall remain as established and reported by the Commissioners appointed for that purpose in the year 1863, except when changed according to the provisions of section five, chapter eighty-nine, of the acts of 1863.

House Bill No. 31.

A BILL to incorporate the Horse Shoe and Backbone Turnpike Company.

Be it enacted by the Legislature of West Virginia:

1. It shall be lawful to open books for receiving subscriptions, to an amount not exceeding ten thousand dollars divided into shares of ten dollars each, to constitute a joint capital stock for constructing a turnpike road from the Horse Shoe bend of Cheat river in Tucker county, crossing the Backbone mountain at, or east of the "Sugar Lands," to the coal mines in said county. The said books shall be opened under the direction of William R. Parsons, Arnold Bonnifield, Jesse Parsons, Rufus Maxwell and David Closs, or any two of them, for the purpose of receiving subscriptions; and when enough is subscribed to survey and locate said road, then the said subscribers shall be incorporated by the name of "The Horse Shoe and Backbone Turnpike Company." Subscriptions may be paid in labor, under a special agreement in writing entered into to that effect, after the company is organized.

2. Said turnpike shall be opened twelve feet wide, between the ditches, and the grade thereof shall not exceed six degrees.

3. The said company shall elect a Board of Directors for the management of the affairs of the road, and make such orders, by-laws and regulations as may be necessary for the government and management of the same.

4. The said company may charge and collect tolls allowed by law; but ore coal one cent and a half per bushel; lime, one half of one cent per bushel, and on round or hewn timber one cent per cubic foot may be charged, when transported over more than one half of the length of the road. And said tolls shall be applied to keeping the road in repair and if any surplus money is left on hand when the road is in good repair, it may be divided among the stockholders.

House Bill No. 32.

A BILL for the relief of William Harpold, late Deputy Sheriff to George S. M. King, Sheriff of Jackson County.

Be it enacted by the Legislature of West Virginia:

1. That William Harpold, late Deputy Sheriff of Jackson
2 County be hereby released from all liability to the State, for tax
3 tickets and duplicates for the year 1863; which have never been
4 realized, to the amount of eigthy- seven dollars and ten cents.

House Bill No. 33.

A BILL for the relief of William Gondee.

Be it enacted by the Legislature of West Virginia:

1. That the sum of twenty-two dollars and fifty cents is hereby appropriated out of any money in the Treasury, not otherwise appropriated, to reimburse William Gondee for money expended in defending suits for property taken while Captain of State Guards.

House Bill No. 34.

A BILL for the relief of the Bull Creek Oil Company.

Be it enacted by the Legislature of West Virginia:

1. That the State Auditor be directed to refund to the Bull Creek Oil Company of Pennsylvania, seventy-five hundredths of all state taxes paid by said company on real estate situate within the county of Pleasants, during the years of 1866 and 1867.

2. That the Board of Supervisors of said county be directed to refund seventy-five hundredths of all taxes paid by said company for county purposes on real estate in Pleasants county for the years 1866 and 1867.

3. That said Board of Supervisors be directed to correct the valuation of said lands, placing the same at their cash value.

House Bill No. 35.

A BILL for the relief of Mrs. William Maston.

Be it enacted by the Legislature of West Virginia:

1. The State Auditor be directed to refund to Mrs. William Maston, of Pleasants county, seventy five hundredths of all state taxes paid by her on real estate situate within said county, during the years 1866 and 1867.

2. That the Board of Supervisors of said county are directed to refund seventy-five hundredths of all taxes paid by said Mrs. Wm. Maston for county purposes on real estate in Pleasants county, for the years 1866 and 1867.

3. That said Board of Supervisors be directed to correct the valuation of said real estate placing the same at their *cash value.*

House Bill No. 36.

A BILL to amend section 1 of chapter 101 of the Code of Virginia, second edition.

Be it enacted by the Legislature of West Virginia:

The first section of chapter one hundred and one, Code of Virginia, second edition, is hereby amended and re-enacted so as to read as follows:

1. No person shall kill any deer or run any deer with dogs with the intention of destroying the same, from the first day of January until the first day of September next following, in each year, any one violating this law shall be fined thirty dollars, to be recovered before any Justice for the county in which the offence was committed, or the offender may be found. Any person found with any recently killed venison or fresh deer skins in his possession during the time of which the killing of deer is prohibited by this act, such possession shall be prima facie evidence of the killing of the same, provided that this section shall not apply to deer killed in any park.

House Bill No. 37.

A BILL providing for the election of township officers.

Be it enacted by the Legislature of West Virginia:

1. The annual election of township officers shall hereafter be held with the State and County elections, on the fourth Thursday in October in each year, instead of the time now provided by law.

2. The ballots for township officers shall be kept separate from those for State and County officers, and for this purpose the clerk of every Board of Supervisors, shall at the expense of the county, provide and furnish at every place of voting in the county an additional ballot box, marked "Township ballots," in which the ballots for township officers shall be deposited.

3. The term of office of all township officers shall hereafter commence on the first day of January instead of the time now prescribed by law, and such officers now in office, and such as may, during the present year, be appointed to fill vacancies shall continue in office until the 31st day of Dedember, 1868, and until their successors shall be elected and qualified according to law.

House Bill No. 38.

A BILL constituting a certain part of the bank of Ohio river a lawful fence.

Be it enacted by the Legislature of West Virginia:

1. So much of the bank of the Ohio river within the county of Ohio, as is included within the following boundary to-wit: Lying between the mouth of Glenn's run and a point on said river where the public highway now diverges from said river, near the lines between the lands of the late Andrew P. Woods and the lands belonging to Bell, Acheson & Co., a lawful fence.

2. All acts or parts of acts inconsistent herewith are hereby repealed.

House Bill No. 39.

A BILL authorizing John Anvil to build a mill dam across Cheat river.

Be it enacted by the Legislature of West Virginia:

1. John Anvil is hereby authorized to construct a mill dam three feet high, across Cheat river, near and below the town of Saint George, in Tucker county, and to be restricted as follows: The slope in said dam to be sufficiently large for the passage of flat boats and rafts.

2. The said John Anvil, as well as his successors, shall be held responsible for any damages resulting from a failure to build said dam as directed in the first section of this act.

House Bill No. 40.

A BILL to incorporate the Peninsula Turnpike Company.

Be it enacted by the Legislature of West Virginia:

1. It shall be lawful to open books for receiving subscriptions to an amount not exceeding one hundred thousand dollars, to be divided into shares of twenty-five dollars each, to constitute a joint capital stock for constructing a turnpike road from a point at or near the east end of John street, in Wheeling, to a point on the National road at or near Lewis Orth's in Fulton, by such route as the corporation hereinafter provided for may determine. Said books shall be opened under the direction of Andrew J. Pannell, Michael Reilly, Oliver J. Crawford, Adam Dodson, David E. Donel, John Grey, G. W. Franzheim, Alex. M. Jacob, Curtis P. Brown, John B. Gilchrist, Lewis Lunsford, or any two or more of them, and at such place or places and at such times as a majority of the above named commissioners may appoint. Ten days notice thereof being previously given in a newspaper published in Wheeling.

2. When twenty thousand dollars of the capital stock shall have been subscribed, then the subscribers, their executors, administrators and assigns, shall be incorporated by the name of "The Peninsula Turnpike Company."

3. The said turnpike road shall be opened not less than fifty feet wide, it may be located at such grade as the company may deem most expedient and the road bed shall be Macadamized, but the said corporation shall be subject to the provisions of the Code of Virginia, second edition, relating to turnpike companies.

4. The said corporation shall elect a Board of Directors for the management of the affairs of the road and make such by-laws and regulations as may be necessary for the government of the same.

5. The said corporation may erect a gate upon said road and collect tolls thereon not to exceed those allowed by law, and said tolls shall first be applied to keeping the said road in good repair before any dividend shall be paid to stockholders.

House Bill No. 41.

A BILL to amend and re-enact the seventh section of an act entitled "An Act concerning licenses," passed November 28, 1863.

Be it enacted by the Legislature of West Virginia:

The seventh section of the act entitled "An Act concerning licenses," passed November 28, 1863, shall be amended and re-enacted so as to read as follows:

7. Upon the petition or complaint in writing of any inhabitant of the county, city or town, any license authorized according to the fourth section of this act shall be revoked by the board or council who authorized it, on satisfactory proof of any violation of the same, or reasonable notice to the person holding the same; and thereafter such license shall be of no effect to protect the person holding the same, from any fine or forfeiture imposed by the first section of this act.

House Bill No. 42.

A BILL to empower the Board of Trustees of the Morgantown Female Collegiate Institute, to convey certain real estate.

Be it enacted by the Legislature of West Virginia:

1. That Waitman T. Willey, President, and William Wagner, Secretary of the Board of Trustees of the Morgantown Female Collegiate Institute, or their successors in office, whenever authorized by said Board of Trustees, are hereby empowered to sell and convey the lot upon which the building known as the Morgantown Female Collegiate Institute, situate in the borough of Morgantown, Monongalia County.

House Bill No. 43.

A BILL amending the charter of the town of Morgantown in the County of Monongalia.

Be it enacted by the Legislature of West Virginia:

That section thirty-two of an act passed March 20, 1860, by the General Assembly of Virginia, entitled "An Act amending the charter of the town of Morgantown, in the county of Monongalia," be amended and re-enacted to read as follows:

25. Whenever anything for which a State license is required is to be done within said town, the council may require a town license to be had for doing the same, and may impose a tax thereon for the use of the town, and the council may in any case require from the person licensed a bond, with such sureties and in such penalty and with such conditions as it may deem proper, and may revoke such license at any time if the condition of said bond be broken. And no license to sell strong or spiritous liquors, or wine, beer, ale, porter, or drinks of like nature, within said town or within two miles of the corporate limits thereof, shall be granted by the supervisors of Monongalia county, unless the person applying therefor shall produce to said supervisors the certificate of the council of said town of its consent to the granting of such license.

House Bill No. 44.

A BILL to amend and re-enact the Charter of the town of Ravenswood, in the county of Jackson.

Be it enacted by the Legislature of West Virginia:

That the charter of the town of Ravenswood be amended and re-enacted so as to read as follows:

1. The corporate limits of the town of Ravenswood shall be as follows, to wit: Beginning at the mouth of Sand creek, at low water mark, and running thence with said creek to the foot of Gallatin street; thence with the line of said street to the line of R. S. Brown's farm; thence with the line of said farm to the Ohio river; thence down the Ohio river, at low water mark, to the place of beginning.

2. The municipal authorities of said town shall be a mayor, recorder and five councilmen, who, together, shall be a common council.

3. The mayor, recorder and councilmen, so soon as they have been elected and qualified as hereinafter provided, shall be a body politic, by the name of "The Town of Ravenswood," and shall have perpetual succession and a common seal, and by that name may sue and be sued, implead and be impleaded; may purchase and hold real estate and other property necessary to enable them the better to discharge their duties, and needful for the good order, government and welfare of the said corporation.

4. All corporate powers of the said town shall be exercised by the said council, or under their authority, except where otherwise provided.

5. There shall be a town sergeant, treasurer, and an overseer of the poor.

6. The mayor, recorder and councilmen shall be elected by the citizens of said corporation, who may be entitled, under this act, to vote.

7. Their term of office shall be (except when to fill vacancies) for one year, and until their successors have been elected and qualified as hereinafter provided.

8. The mayor, recorder and councilmen must be freeholders in said corporation, and entitled to vote for members of its common council.

5. The first election under this act shall be held on the second Monday in March, eighteen hundred and sixty-eight, in the town of Ravenswood, under the supervision of the supervisor and inspector of elections of Gilmore township; and annually thereafter there shall be an election in each year, at such time and place, and under such supervision, rules and regulations as the council may prescribe. The officers conducting the first election shall grant a certificate to the persons elected, which certificate shall be recorded in the journal kept by the council.

10. All persons residing in said town, and who shall have paid the town taxes, if any, assessed against them for the preceding year, and who shall be entitled to vote for all officers elected by the people under this act.

11. All vacancies occurring from any cause, in any of the offices provided for in this act, shall be filled by appointment by the council.

12. At all elections the vote shall be by ballot.

13. Whenever two or more persons for the same office, at any election, shall receive an equal number of votes, the officers conducting the election shall, in an equitable mode prescribed by the council, determine which of the persons so voted for shall be returned elected.

14. All contested elections shall be heard and decided by the council for the time being, but the council may order a new election if they are satisfied the ends of justice will be better attained thereby.

15. A majority of the whole number of officers mentioned in the second section of this act, shall be necessary to the transaction of any business whatever.

16. The mayor, recorder, councilmen, and all officers herein provided for, shall each, before entering upon the duties of his office, and within two weeks from the time of his election or appointment, take and subscribe the oath prescribed by the act of the Legislature of this State, passed November 16th, 1863, and an oath to faithfully and impartially discharge the duties of his office. The mayor, having taken such oath, or affirmation, may administer the same to the councilmen and other officers; certificate of said oath, or affirmation, shall be recorded in the journal kept by the council; and whenever two-thirds of the members of the common council shall

have qualified, they shall enter upon their said offices, and shall supersede the former council of said town.

17. If any one who shall have been duly elected mayor, recorder, or councilman, shall not have been eligible as herein prescribed, or shall refuse or fail to take the oath or affirmation required under this act, within the time prescribed, the council, for the time being, shall declare his said office vacant, and proceed to fill such vacancy as provided in section eleven of this act.

18. The council shall be presided over at its meetings by the mayor, or, in his absence, by one of the councilmen, chosen by a majority of the council.

19. The council shall cause to be kept in a well bound book, an accurate record of its proceedings, by-laws, acts and orders, which shall be fully indexed, and open to the inspection of the citizens of the town. The proceedings of each meeting shall be read and corrected at the succeeding meeting, and signed by the person presiding for the time being. Upon the call of any member, the yeas and nays, or any question, shall be called and recorded in the journal. The presiding officer may vote as a member of the council, and in all cases of a tie, the person at the time presiding at the council, shall have the casting vote.

20. The council shall have power to re-survey said town, and for this purpose may employ a competent engineer, (which officer may be made elected by order of the council,) and prescribe his duties, term of office, and amount of compensation; to open new streets, and extend, straighten, widen and repair old streets and alleys; to curb

and pave streets, sidewalks and gutters for public use, and to alter, improve and light the same; and shall have control of all avenues for public use in said town; to have the same kept in good order and free from obstructions on or over them; to regulate and determine the width of all streets, sidewalks and public alleys; to order and direct the curbing and paving of all sidewalks and footways for public use in said town, to be and kept in good order by the owners or occupants of the adjacent property; to control the construction and repairs of all bridges and culverts, the opening and construction of all ditches, drains and gutters; to widen, deepen and clear the same of stagnant water and filth, and to determine at whose expense the same shall be done; to purchase, lay off and appropriate public grounds, and control the use of the same; to provide, contract for, and take care of all public buildings proper to the town; to provide for the regular building of houses, or other structures; to cause the removal of unsafe walls or buildings; to prevent injury or annoyance to the public, or individuals, from anything dangerous, offensive or unwholesome; to abate, or cause to be abated, anything which, in the opinion of a majority of the whole council, shall be a nuisance; to regulate the keeping of gunpowder and other combustibles; to provide, in or near the town, place for the burial of the dead, and to regulate interment in the town, and provide for shade and ornamental trees; to provide for the making of division fences, and for draining of lots by proper drains and ditches; to make regulations for guarding against danger or damages from fires; to provide for the poor of the town; to organize one or more

fire companies, and provide the necessary apparatus, tools, implements, engines, or any of them, for their use; to provide a sufficient revenue for the said town, and appropriate the same to its expenses, and to provide for annual assessments of taxable persons and property in the town; to adopt rules for the transaction of business, and for the government and regulation of its own body; to promote the general welfare of the town, and to protect the persons and property of the citizens therein; to appoint such officer as they may deem proper, including a sergeant, treasurer, assessor, and overseer of the poor; to define their powers, prescribe their duties, fix their term of service and compensation; require and take from them bonds, with such sureties, and in such penalty, as the council may determine, conditioned for the true and faithful discharge of their duties, and remove them at pleasure; (all bonds taken by the council shall be made payable to the town by its corporate name;) to regulate and provide for the weighing and measuring of hay, coal, wood, and other articles sold, or for sale, in said town, and to regulate the transportation thereof through the streets; to establish and regulate markets; to prescribe the time for holding the same, and what articles shall be sold only in said market; to protect places of divine worship; to lay off town into three or more wards, and to appoint and publish the places of holding town elections; to erect, or authorize, or prohibit the erection of gas works or water works in or near the town; to prevent injuries to or pollution of the same, or danger to the water and healthfulness of the town; for all which

purposes, except that of taxation, the council shall have jurisdiction for one mile beyond the corporate limits of said town.

21. To carry into effect these enumerated powers, and all others conferred upon the said town, or its council, expressly, or by implication, in this or any other acts of the Legislature, the council shall have power to adopt and enforce all needful orders, by-laws and ordinances, not contrary to the Constitution and laws of the State, and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment under judgment and orders of the mayor of said town, or the person lawfully exercising his functions; and the council, with the consent of the Supervisors of Jackson county, entered on record, may have the right to use the jail of said county for any purpose necessary to the administration of its affairs.

22. It shall be lawful for the council to establish and construct landings, wharves and docks on any ground which does or shall belong to said town, and to repair, alter or remove any building, wharf or dock, which has been or shall be so constructed, and to lay and collect a reasonable duty on vessels coming to or using the same; and it shall have power to pass and enforce such ordinances as shall be proper, to keep the same in good order and repair; to preserve peace and good order at the same, and regulate the manner in which they shall be used; it shall have power to appoint as many wharf masters for said town as may appear necessary; to prescribe their duties, fix their fees, and make all regulations in respect to such officers as they may deem proper.

23. The council shall cause to be annually made up and entered

upon its journal, an account and estimate of all sums which ought to be paid within one year, and it shall order a town levy of so much as, in its opinion, is the amount which may be raised from licenses and other sources.

24. The levy so ordered shall be upon all male persons, residents of said town, over the age of twenty-one years. The council shall have power to tax all dogs, and all real and personal estate within said town, subject to State and county taxes; Provided, that the tax so levied do not exceed one dollar on every one hundred dollars of value of unimproved lots, (or lots upon which there is no buildings,) and seventy-five cents on every one hundred dollars of value of other real and personal property, or two dollars per head on each taxable person, or two dollars per head on dogs; Provided, further, that dogs known as "rat terriers" shall not be taxed.

25. Whenever anything for which a State license is required is to be done within said town, the council may require a town license to be had for doing the same, and may impose a tax thereon for use of the town; and the council may, in any case, require from the person licensed a bond, with such sureties and in such penalty, and with such conditions, as it may deem proper, and may revoke such license at any time, if the conditions of said bond be broken. And no license to sell strong or spirituous liquors, or wine, beer, ale, porter, or drinks of like nature, within said town, or within two miles of the corporate limits thereof, shall be granted by the supervisors of Jackson county, unless the persons applying therefor shall produce

to said supervisors the certificate of the council of said town of its consent to the granting of such license.

26. The sergeant shall have power to collect the town taxes, fines and levies, and shall have power, one month after he shall have received the books of the assessor of said town, to distrain and sell therefor, in like manner as a sheriff may distrain and sell for State taxes, and shall, in all other respects, have the same powers as a sheriff to enforce the payment and collection thereof, and the said sergeant shall have power to exercise, within the corporate limits of said town, all duties that a constable can legally exercise in regard to the collections of claims, executing and levying process, and he shall be entitled to the same compensation therefor, except in case of the arrest of any person violating any of the ordinances of the council. Upon the conviction of such person he shall be entitled to one dollar for such arrest, to be taxed in the costs against the person so convicted; and he and his securities shall be liable to all fines, penalties and forfeitures that a constable is legally liable to for any failure or dereliction in his said office, to be recovered in the same manner and before the same courts that said fines, penalties and forfeitures are now recovered against constables.

27. There shall be a lien on real estate within said corporation for the town taxes assessed thereon from the commencement of the year in which they are assessed, and for all other assessments, fines and penalties assessed or imposed upon the owners thereof by the authorities of said town, from the time the same are so assessed or

imposed, which lien shall be enforced by the council in the same manner as the lien for taxes for county purposes is now enforced; the lien aforesaid shall have priority over all other liens, except for taxes due the State.

18. The council may prohibit any theatrical or other performances, show or exhibition, which it may deem injurious to the morals or good order of the town.

29. The council shall have power to require and take from the sergeant and treasurer bonds, with sureties satisfactory to the council, in such penalty as it may deem sufficient, except that as to the sergeant; it shall not be for a penalty less than five thousand dollars; and said bond shall be conditioned for the faithful and true performance of his duties as sergeant, and for the collecting and accounting for and payment of the taxes, fines and other moneys of the town which shall come into his hands, or which it shall be his duty to collect, at such times and to such persons as the council may order. The treasurer's bond shall be conditioned for the faithful performance of his duties as treasurer, and that he will faithfully pay over and account for all moneys that shall come into his hands as treasurer, when and as he shall be thereto required by the council.

30. The mayor shall be the chief executive officer of the town, and shall take care that all by-laws, ordinances and orders of the council are faithfully executed; he shall be *ex officio* a conservator and justice of the peace within the town, and shall, within the same, exercise all the powers and duties vested in justices, except that he shall

have no jurisdiction as such in civil cases; he shall have control of the police of the town, and may appoint special police officers, whenever he deems it necessary; and it shall be his duty especially to see that the peace and good order of said town are preserved, and that the persons and property therein are protected; and to this end he may cause the arrest and detention of all riotous and disorderly persons in said town, before issuing his warrant therefor; he shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and, in default of such payment, he may commit the party in default to the jail of Jackson county, until the fine or penalty and costs be paid, to be employed during the term of his imprisonment, which, in such case, shall not exceed thirty days. He shall, from time to time, recommend to the counnil such measures as he may deem needful to the welfare of the town. He shall receive a compensation for his services, to be fixed by the council, which shall not be increased or diminished during the term for which he was elected.

31. The duty of the recorder shall be to keep the journal of the proceedings of the council, and have charge of and preserve the records of the town; he shall attend the mayor in all examinations, receive and issue his orders, swear witnesses, and perform all the duties of a clerk in the council and mayor's court; he shall receive a compensation for his services, to be fixed by the council, which shall not be increased or diminished during the term for which he shall have been elected.

32. It shall be the duty of the town sergeant to collect the taxes,

fines, and other income and revenue of the town, as specified in his bond, and to account and pay the same to the treasurer at such time as the council may order; and it shall be his duty to at least once in every six months, during his continuance in office, and oftener if thereto required by the council, to render an account of the taxes, fines, and other claims in his hands for collection, and return a list of such as he shall have been unable to collect by reason of insolvency; to which list he shall make oath that he has used due diligence to collect the same, but has been unable to do so. The council shall, if it be satisfied he could not have collected the said claims by use of due diligence, allow them. But if the council shall be of the opinion that, by the use of due diligence on the part of said sergeant, he could have collected the said claims, or any part of them, then he shall be charged with such as he might have collected. The said sergeant shall do and perform all the other acts pertaining to the office of sergeant of a corporation, and of a police officer and constable within said town, and as such shall have the same powers, duties, fees and liabilities as are by law prescribed to a constable. He shall, for his services, receive such compensation as shall be fixed by the council.

33. All moneys belonging to said town shall be paid over to the treasurer, none of which shall be paid out by him except as the same shall have been apportioned and ordered to be paid by the council, and the said treasurer shall pay the same upon certificate of the recorder, or, in his absence, upon the certificate of the mayor.

34. If the said treasurer shall fail to account for and pay over all

or any moneys that shall come into his hands, when thereto required by the council, it shall be lawful for the council, in the corporate name of the town, by motion before the circuit court of Jackson county, after ten days previous notice, to recover from the treasurer and his sureties or their personal representatives, any sum that may be due from said treasurer to said town.

35. If the sergeant shall fail to collect, account for and pay over all the taxes, fines and other revenue of the town in his hands for collection, according to the conditions of his bond, it shall be lawful for the council to recover the same by motion, in the corporate name of the town, before the said circuit court, after ten days' notice, against the said sergeant and his sureties, or any or either of them, his or their executors or administrators.

36. The said town and the taxable persons and property therein shall be exempt from all expense or liability for the construction or repairs of roads or bridges, or other taxes for county or township purposes, except free school tax, outside the corporate limits of said town, for any year in which it shall appear that said town shall, at its own expense, provide for its own poor and keep its streets in order.

37. All rights, privileges and properties of said town heretofore acquired and possessed, owned and enjoyed by any act now in force, shall continue undiminished and remain vested in said town under this act; and all laws, ordinances, acts and resolutions of council, now in force, and not inconsistent with this act, shall be and continue

in full force and effect until regularly repealed by a council elected as provided under this act.

38. The council shall divide said town into wards as soon as may be after taking control thereof, having regard to territory and population and streets of the town, and shall adopt all needful just ward regulations, whether general or special, for the good of the citizens thereof; it shall authorize street expenditures in the several wards, as equity and justice shall demand, and may authorize the collection of a special tax in any ward of the town for a specified purpose within such ward; when requested so to do by a majority of the voters thereof; shall regulate the suffrage of said town, so that voters of each ward may have a voting place therein, and shall appoint proper officers to attend each place of voting, who shall make return of the votes there taken, in such manner and at such time as the council may prescribe. Whenever, in the opinion of the council, it becomes necessary to lay off said town into more than three wards, the said council shall so lay it off and apportion the councilmen of said town, so that each ward shall be equally represented in the council, and may increase or diminish the number of councilmen.

39. The council shall provide for the employment and safe keeping of persons who may be committed for default in payment of fines, penalties or costs under this act, and who are otherwise unable to discharge the same, by putting them to work for the benefit of the town; shall keep on hand an ample supply of necessary material for the same, and shall provide all necessary tools, implements,

fixtures and facilities for the immediate employment of any and all such persons; shall fix a reasonable rate per diem as wages to be allowed every such person, till such fine and costs against him are discharged, and the recorder shall keep an account of all fines and penalties so collected and expended.

40. This act shall at all times be subject to modification or repeal, at the pleasure of the Legislature.

House Bill No. 45.

A BILL to incorporate Newburg Division No. 362 of the Sons of Temperance.

Be it enacted by the Legislature of West Virginia:

1. That J. Hope Sutor, David Hinerman, William Sharps, Alexander Dunsmar, Solomon L. Allen and W. J. Harrington, and such others as are now regularly associated with them, and such as may hereafter become regularly associated with them, are hereby created a body politic and corporate under the name and style of "Newburg Division No. 362 of the Sons of Temperance," in the village of Newburg in Preston county; and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, and may purchase, sell and hold to them and their successors, for the charitable and benevolent purposes of said Division, not exceeding two full lots of ground in said village of Newburg, and not exceeding six acres of land in the county of Preston; and also such personal property and moneys necessary for the purposes aforesaid.

2. The said Division shall be authorized to make all needful laws and regulations for the management of their property, as a majority of said Division may prescribe.

House Bill No. 46.

A BILL to amend and re-enact Chapter 109 of the Acts of 1866, entitled "An Act in relation to the Guyandotte Navigation Company."

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and nine of the Acts of 1866, being an act entitled "An Act in relation to the Guyandotte Navigation Company," passed February 28th, 1866, be and the same is hereby amended and re-enacted so as to read as follows:

1. O. W. Mather, John Alford, William C. Miller, Jerome Shelton, James A. Neighbert, Henderson Drake and Thomas E. Browning, and such other persons as may become associated with them in the manner hereinafter provided, shall be and they are hereby constituted a body politic and corporate, under the name and style of "The Guyandotte Navigation Company," and by that name shall have succession; shall sue and be sued; may hold real estate and other property; make and use a common seal, and make all such by-laws, rules and regulations as may be necessary for the management of the Company, the control of its stock, and the payment thereof, not repugnant to the laws of this State, or the United States.

2. The capital stock of the said Company shall be not less than one thousand nor more than one hundred thousand dollars, to be divided into shares of ten dollars each, and each share of stock shall entitle the holder thereof to one vote in all meetings of stock-

holders, to be given either in person or by proxy. And for the purpose of obtaining subscriptions to the said capital stock, books shall be opened under the direction of the persons named in the first section of this act, or any of them, at such times and places as they may deem expedient, and payments of said subscriptions shall be made in such manner and at such times as the directors of such Company shall prescribe.

3. The affairs of the said corporation shall be managed by the persons named in the first section of this act, who are hereby constituted a Board of Directors for that purpose, until other Directors shall be elected as hereinafter provided; and in case of the death, removal, or refusal to act, of any one or more of said persons, the others shall have power to appoint Directors, for the time being, in their stead. When one thousand dollars of the capital stock of said Company shall be subscribed, a general meeting of the subscribers to the said stock shall be held at such time and place as the Directors, for the time being, shall appoint, for the purpose of electing five Directors for the said corporation, to serve for one year, and until their successors shall have been elected, and all future elections of Directors shall be held at such time and place as the by-laws of said corporation shall prescribe. The Directors so elected shall appoint one of their number President, to serve during their pleasure, and they may also appoint a Secretary, to record and preserve the proceedings of the Board of Directors, and also of the stockholders, when assembled for the transaction of business. The Board of Directors of the said corporation shall have the sole power to pass

by-laws, adopt rules and regulations for the government of the said corporation, and to appoint and remove all agents and employees thereof.

4. The said corporation shall have power to improve the navigation of the Guyandotte river from its mouth to Logan Court House, and as much further as they may deem proper, by removing therefrom any and all obstructions, and constructing in and along the same, sluices, wing dams, embankments and levees, in order to control the channels and currents thereof; Provided, That the said corporation shall not remove any mill-dam from said river, above Peck's mill, in the county of Logan, without the consent of the owner; nor shall any mill-dam hereafter be built on the said river, below that point, under any authority whatever, during the existence of the said corporation.

5. The said corporation shall also have power to construct and maintain on the said Guyandotte river, such number of booms, with or without piers, as may be necessary for the purpose of stopping and securing all logs, timber, and lumber of all kinds floating on said river, and the said corporation may cut down and remove any trees, bushes and undergrowth on any island in said river, or on the shores of said river, which may in any way hinder or impede the convenient floating or drifting of logs, timber or other lumber thereon.

6. In consideration of the improvements provided for in this act, the said corporation shall have the right to erect and mainiain along and adjacent to said river, steam saw and grist mills, and to purchase, manufacture and sell logs, timber, lumber, grain and flour.

The said corporation may also establish such rates of charges for boomage in securing logs, timber, lumber, boats and other valuable things drifting down said river, as in its discretion it may deem reasonable. But such charges shall, at all times, be subject to be changed or altered by the Board of Public Works, or by the Legislature. Said corporation shall have a lien upon all logs, timber, lumber, boats and other things of value secured by them in their booms as aforesaid, for the boomage due and unpaid thereon, and in case the owner thereof shall fail or refuse to pay said boomage for the space of thirty days after the same are secured in said booms, then the said corporation, or its agents, are hereby authorized to sell the same at public auction, after ten days' notice of such sale posted at two or more of the most public places in the vicinity of the place of sale, for the purpose of paying the said boomage and the costs and expenses of such sale, and the balance of the proceeds of such sale, if any, shall be paid to the owner of the property sold.

7. The directors of the said corporation, or a majority of them, may agree with the owner or owners of any lands or materials, for the purchase or occupation thereof, necessary for the location or erection of their piers, booms, embankments, levees or other improvements, or buildings authorized by this act, and for the removal of any mill-dam on the said river which obstructs the navigation thereof; and if cannot agree on the price to be paid for such lands or materials, they or in the amount of damages to be paid for the removal of said mill-dam below, or if any of the owners of said lands, materials, or mill-dams, be infants, married women, persons of unsound mind, or non-

residents of this State, application may be made to the circuit court of the county in which the same are situated, for a writ of *ad quod damnum* to condemn the same, and assess the price or damages to be paid therefor. And, upon such application being made, the said court shall, by an order entered of record, award the said writ, directed to the sheriff of such county, commanding him to summon twelve discreet, impartial and disinterested freeholders to meet at or near the place where said lands, materials or mill-dam are to be valued or condemned, on some day to be fixed by the sheriff, not less than ten nor more than thirty days after the issuing of said writ, and if any of the persons summoned fail to attend, the sheriff shall immediately summons a sufficient number of persons qualified to serve, to fill up the pannel. As soon as twelve qualified jurors shall be obtained, the said sheriff shall administer to each of them an oath, or affirmation, that he will honestly assess and fix the price or damages to be paid by the said corporation to the owner or owners of the lands, materials or mill-dam, for the use, occupation or removal thereof by said corporation. When the said jury, or eight of them at least, shall have agreed upon the amount to be paid, they shall reduce their inquisition to writing, and sign and seal the same, and deliver it to the sheriff, by whom it shall be returned to and filed with the clerk of the court from whence it issued. The court shall at the next term, after the return of said writ, confirm the finding of the jury, unless good cause be shown to the contrary; but if such cause be shown, the court shall set aside the said finding and award a new writ, if either party so require, which shall be executed in the

same manner as herein prescribed. The inquisition shall describe all lands condemned by metes and bounds, and shall describe all property condemned, with convenient certainty; and the valuation or damages fixed or assessed by the jury and confirmed by the court, when paid or tendered by the corporation, or its agent, shall entitle the said corporation to the use and occupation of the said land and materials during their corporate existence; and shall authorize the said corporation to remove any mill-dam from the said river below the point aforesaid. If such valuation or damages be not received when tendered, it may be received at any time afterwards, upon demand. When the owners of any such lands, materials or mill dams, are in a condition to contract with the said corporation for the use of such lands and materials, or the removal of said mill dams, and fail or refuse to do so, they shall pay all the costs and expenses incurred in the issuing and execution of the said writ, unless the jury shall fix the price or damages to be paid by the corporation at a sum greater than that offered to be paid by it to such owners, before the application for such writ. In all other cases, such costs and expenses shall be paid by the corporation.

8. No person shall be permitted to encumber the said booms, or any of them, by occupying the same, or any part thereof, with rafts, logs, lumber or other things, without the permission of said corporation; and if any person shall wilfully destroy or injure any of the said booms, piers, embankments, levees, wing-dams, or other property or works belonging to or used or occupied by the said corporation, he shall pay treble damages therefor to said corporation,

to be recovered by said corporation in any court having jurisdiction in the case, and shall, moreover be guilty of a misdemeanor, and, upon conviction thereof, may be fined or imprisoned, or both, at the discretion of the jury.

9. For the purpose of improving and maintaining the navigation of the said river, and making repairs from time to time on the said booms, piers, embankments, levees, and other property of said corporation thereon, and for drifting, rafting, and securing logs, timber, lumber, and boats of all descriptions, the said corporation, its agents and employees are authorized, temporarily to use and occupy the land on each shore of the said river, not under cultivation, and to pass and repass thereon, subject to the payment, to the owners of the lands so used or occupied, the actual damages, if any, sustained by them by reason of such temporary use or occupation.

10. The said corporation shall have power to purchase, build, own and keep on the said river, steamboats, dredge boats, barges, flat-boats, and other water craft, and transport freight and passengers thereon, and to charge and receive therefor such reasonable tolls as they may from time to time establish. But nothing herein contained shall be so construed as to deprive any person or persons, whether members of the said corporation or not, from the use of the said river for the transportation of logs, timber, lumber, produce, coal, iron, and merchandise of all descriptions, or from navigating the said river with freight or passenger boats, or other water craft, except dredge boats, or from charging and receiving tolls for the transportation of such freight and passengers. And provided, tha

the said corporation shall not, in any way, interfere with or disturb the wire suspension bridge across the said river, at the town of Guyandotte.

11. The interests and stock of the State in the Guyandotte Navigation Company is hereby relinquished to the stockholders in the company hereby incorporated, provided the said company shall improve the navigation of the said river in the manner specified in this act.

12. The right is reserved to the Legislature at all times to alter or amend this act. But such alteration or amendment shall not affect or impair the right of the creditors of the corporation to have the property and assets thereof applied to the payment of their respective claims, or of the stockholders to have the surplus which may remain, after providing for the debts and liabilities of the corporation, distributed among themselves according to their respective interests therein.

13. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

House Bill No. 47.

A BILL to amend and re-enact sections two and three of chapter one hundred and sixty-four of the Code of Virginia, second edition.

Be it enacted by the Legislature of West Virginia:

That sections two and three of chapter one hundred and sixty-four, of the Code of Virginia, second edition, are hereby amended and re-enacted so as to read as follows:

2. Any person duly authorized and practicing as counsel or attorney at law in any state or territory of the United States, or in the District of Columbia, may practice as such in the courts of this State."

3. "Every such person shall produce before each court in which he intends to practice, satisfactory evidence of his being so authorized, and take an oath to support the Constitution of the United State, and that he will honestly demean himself in the practice of the law, and to the best of his ability execute his office of attorney at law. He shall also take the oath prescribed by the act passed February 14th, 1866, entitled "An Act in relation to the oaths of attorneys at law," and if he intends to reside in this State, or has been licensed in this State, he shall take an oath to support the Constitution of this State.

House Bill No. 48.

A BILL to amend and re-enact Section Twenty-Eight of Chapter Forty-nine of the Code of Virginia, second edition.

Be it enacted by the Legislature of West Virginia:

That Section Twenty-Eight of Chapter Forty-Nine of the Code of Virginia, second edition, be, and the same is, hereby amended and re-enacted so as to read as follows:

"28. If any officer or his deputy shall fail to make such return of any order, warrant or process for the collection of money, such failure shall be *prima facia* evidence of the receipt of the money due thereon, by such officer or his deputy, as the case may be, and the Court to which, or to the Clerk's office of which such return ought to be made, may, on a motion on behalf of the party injured, give judgment against such officer and his sureties, and against his or their personal representatives for the principal, interests and costs due on said order, warrant or process, at the time such return ought to have been made, with lawful interest thereon from that time until payment; and with such damages thereon not exceeding ten per centum per annum from that time until payment, as the Court may deem proper unless it be made to appear to such Court that the money so due, or some part thereof, was not collected by such officer or his deputy, and in case part only of such money has been collected, the Court shall give judgment for such part, with interest and damages as aforesaid. But in case it shall also appear to said Court,

that the money uncollected on such order, warrant or process might have been made by such officer or his deputy by the use of due diligence, the Court shall give judgment for the amount so uncollected, as if the same had been collected by such officer or his deputy. Where such failure to return is by a deputy, there may also be a like motion and judgment against such deputy and his sureties, and against his and their personal representatives. In all cases where such judgment is rendered under the provisions of this act, the person or persons against whom the judgment is rendered, and who shall pay the same, shall be substituted to all the rights of the plaintiff or party in interest, in the judgment, decree or proceeding in which the warrant, process or order was issued or made, and shall have all the remedies for the collection thereof that such plaintiff or party would otherwise have. Upon satisfactory evidence that the money due upon such warrant, process or order, or some part thereof, was not collected by such officer or his deputy."

House Bill No. 49.

A BILL to incorporate Ripley Lodge No. 30, of the Independent Order of Odd Fellows, in the town of Ripley.

Be it enacted by the Legislature of West Virginia:

1. That Jacob L. Armstrong, James A. Parks, James Armstrong, Charles H. Progler, William T. Greer, James Tibles and James D. W. Riley and such others as are now regularly associated with them, and such as may hereafter become regularly associated with them, are hereby created a body politic and corporate under the name and style of "Ripley Lodge No. 30, of the Independent Order of Odd Fellows," in the town of Ripley, in Jackson county; and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, and may purchase sell and hold, to them and their successors for the charitable and benevolent purposes of said lodge not exceeding two full lots of ground in said town of Ripley, and not exceeding six acres of land in the county of Jackson; and also such personal property and moneys necessary for the purposes aforesaid.

2. The said Lodge shall be authorized to make all needful laws and regulations for the management of their property as a majority of said Lodge may prescribe.

3. This act may be altered, amended or repealed, at the pleasure of the Legislature.

House Bill No. 50.

A BILL to amend the law concering Corporations.

Be it enacted by the Legislature of West Virginia:

1. That any corporation formed, or which may hereafter be formed under, or which has accepted or may accept the provisions of the "Act providing for the formation of corporations, and regulating the same," passed October 26, 1863, may, at any general or special meeting of the stockholders thereof, by resolution or resolutions, make such reduction in the par value of the capital stock thereof as may be decided upon by said stockholders, a majority of the stock of such companies being represented by the holders thereof being present, either in person or by proxy, and voting for such reduction; provided, that notice be given by advertisement published four successive weeks in some newspaper of general circulation, printed in this State, of the intention to offer such resolution.

2. When such reduction shall have been made by any such company, the president thereof shall, under his signature and the common seal of the company, certify the resolution to the Secretary of the State, and the Secretary, under his hand and the great seal of this State, shall issue to the company so making reduction, a certificate, reciting the resolution and declaring the proposed reduction to be authorized by law; which certificate shall be received in all courts and places as legal evidence of the change in the par value of the shares of the capital stock of such company, and of the authority to reduce the same.

House Bill No. 51.

A BILL declaring the Elk Fork of Point Pleasant creek, in Tyler county a public highway.

Be it enacted by the Legislature of West Virginia:

1. That the Elk Fork of Point Pleasant creek, in the county of Tyler, from the mouth of said stream to the mouth of Hayes' run at or near Andrew Haught's, be, and is hereby declared a public highway for the transportation of timber.

2. Be it further enacted, that such navigation shall not interfere with any mills or mill dams.

House Bill No. 52.

A BILL to incorporate the North and South Branches Turnpike Company.

Be it enacted by the Legislature of West Virginia:

1. That Richard D. Johnson, J. Philip Romaiu, Joseph Shriver,
2. William Walsh, Thomas Perry, George C. Perry, and W. W.
3 McKaig, of Cumberland, Maryland; John B. Young, Isaac Hollen-
4 bach, Nimrod Furr, Jacob P. Daniels, and Hiram Alkire, of Mineral
5 county; David Gibson, Tobias Baker, Robert W. Gilkeson, Richard
6 A. Marshall, Andrew W. Kercheval, James Sheetz, George A.
7 Tucker, William Perry, Charles M. Taylor, Isaac Haines, D. C.
8 Tabb, Frederick Starns, James Peppers, and David Holt, of Hamp-
9 shire county; and Joseph Van Meter, James R. Heiskell, John W.
10 Duffey, James Kuykendall, Goorge T. Williams, William Maury
11 Randolph, Angies M. Wood, William Baker, and Samuel Bean, of
12 Hardy county, or any two of them respectively, at the places and
13 counties named, are hereby appointed to open books of subscription
14 to the capital stock of a company, to be entitled "The North and
15 South Branches Turnpike Company," which is authorized to con-
16 struct a turnpike road from some point on the Virginia shore of the
17 North Branch of Potomac, in Mineral county, at or near the city of
18 Cumberland, Maryland, by way of the "wire suspension bridge"
19 site, in Hampshire county, and Romney, on the eastern side of the
20 South Branch of Potomac, to Moorefield, Hardy county, with a
21 branch of said road from a point at or near Romney, by way of
22 Grassy Lick Run, to intersect the North River Turnpike near Walk-
23 er's, and thence to extend to the Winchester and Moorefield Turn-
24 pike Road, near William Baker's, on Lost River.

2. The capital stock of said Company, divided into shares of twenty dollars each, shall consist of not exceeding thirty thousand dollars, and the State, in consideration of the re-building of the South Branch Wire Suspension Bridge by said company, with concurrence of the private stockholders therein, doth authorize an exchange of its stock in said Bridge Company, for stock in the said North and South Branches Turnpike Company, so soon as the full sum of eight thousand dollars shall have been subscribed to the capital stock of the same, to be made by the Board of Public Works of the State, and the Board of Supervisors of the counties of Mineral, Hampshire and Hardy, are respectively authorized to subscribe apportionately one-third of said capital stock; Provided that such subscription be a preferred stock, the subscription of said counties being in county bonds bearing six per centum per annum interest, redeemable in a period of thirty years, which interest, and the sinking fund necessary to payment of the bonds in the time prescribed, shall first be paid out of the tolls arising from the said road, after same or part thereof shall have been constructed.

3. Any foreign corporation may subscribe to the capital stock of said company, and in all meetings of stockholders each share of stock shall count, and be represented in person or by proxy, as one vote.

4. The provisions as to the construction of said road and bridge, or bridges, rates of toll, &c., shall be those found in an act passed by the State of Virginia, for the construction, &c., of the Moorefield and North Branch Turnpike Company and the South Branch Wire Suspension Bridge.

5. The Company hereby incorporated may consolidate any portions of its road with other turnpikes now existing, on terms agreed upon between them.

House Bill No. 53.

A BILL for the relief of James Wiseman.

Be it enacted by the Legislature of West Virginia:

1. That James Wiseman of Kanawha county, be, and is hereby released from the payment of a certain bond, executed by one Lewis Ellis, with the said Wiseman and George W. Martin, as his sureties to the State of Virginia, in the sum of five hundred dollars, conditional for the appearance of said Ellis to answer the charge of felony, before the Circuit Court of said county in 1861.

House Bill No. 54.

A BILL for the relief of Geary township in the county of Roane.

WHEREAS, the township of Geary in the county of Roane had the enumeration of youths taken as required by law, but on account of the sickness of a member of the Board of Education, it was not forwarded to the State Superintendent of Schools in time to receive its *pro rata* of the State School fund for the year 1867; therefore,

Be it enacted by the Legislature of West Virginia:

1. That the sum of one hundred and fifteen and nine hundredths dollars is hereby directed to be paid by the Auditor, on the order of the State Superintendent of Free Schools, to the township treasurer of Geary township, Roane county, out of the school funds in the Treasury, for the year 1867.

House Bill No. 55.

A BILL authorizing elections to be held in Smithtown in the county of Monongalia.

Be it enacted by the Legislature of West Virginia:

1. That in addition to the places of voting already established, elections shall be held for the election of all officers provided for by the Constitution and laws of West Virginia, at the house of———— in the village of Smithtown in the county of Monongalia.

House Bill No. 56.

A BILL to incorporate Highland Lodge Independent Order of Odd Fellows.

Be it enacted by the Legislature of West Virginia:

1. That Samuel J. Bowles, A. P. White, Samuel Loff, A. W. Kercheval, D. W. Entler, John M. Snyder, Wm. A. Kaykendall, Reuben Offner, John Greitzner and such others as are now regularly associated with them, and such as may hereafter become regularly associated with them, are hereby created a body politic and corporate under the name and style of "Highland Lodge Independent Order of Odd Fellows," in the town of Romney in Hampshire county; and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, and may purchase, sell and hold to them and their successors for the charitable and benevolent purposes of said lodge, not exceeding ten acres of land in said town of Romney or its vicinity, and also such personal property and moneys necessary for the purposes aforesaid.

2. The said lodge shall be authorized to make all needful laws and regulations for the management of their property as a majority of said lodge may prescribe.

3. This act may be altered, amended or repealed, at the pleasure of the Legislature.

House Bill No. 56.

(As it passed the House.)

AN ACT to amend sub-division six of section one and section five of the Act passed October twenty-sixth, eighteen hundred and sixty-three, entitled "An Act providing for the formation of corporations and regulating the same."

Be it enacted by the Legislature of West Virginia:

1. That sub-division six of section one of the act passed October twenty-sixth, eighteen hundred and sixty-three, entitled "An Act providing for the formation of corporations and regulating the the same," be and the same is hereby amended and re-enacted so as to read as follows:

VI. For benevolent associations, societies and orders, including orphan, blind, and lunatic asylums and hospitals, Lodges of Free and Accepted Masons, Independent order of Odd Fellows, Improved Order of Red Men, Sons of Temperance, and Good Templars, and all other associations, societies and orders of like character.

2. Section five of the said act is hereby amended by adding at the end thereof the following:

"If the application for a certificate of incorporation be one based on the sixth sub-division of section one as amended by this act, the applicants shall sign an agreement to the following effect:

"The undersigned agree to become a corporation by the name of (here insert the name) for the purpose of (here describe the purpose) and for that purpose desire authority to purchase, hold, lease, sell and and convey, real property to the value of $ and personal property to the value of $ Given under our hands this day of 18 ." The certificate of incorporation in such case shall correspond with said agreement.

House Bill No. 57.

A BILL to incorporate the Hughes' Creek Railroad and Coal Company.

Be it enacted by the Legislature of West Virginia:

1. That James G. Paxton, of Rockbridge county, Virginia; Samuel A. Miller, William A. Quamer, John S. Swan, and John Slack, jr., of Kanawha county, West Virginia, and their associates, successors and assigns, and all who become stockholders, when five hundred shares of the capital stock shall be subscribed, are hereby made a body politic and corporate, by the name and style of "The Hughes' Creek Railroad and Coal Company."

2. The capital stock of said company shall be not less than fifty thousand dollars nor more than one million of dollars, to be divided into shares of one hundred dollars each, and books may be opened by said corporators, or any three of them, for receiving subscriptions to the said capital stock at such time or times, and at such place or places, as any three of them may designate, and the said books may be closed, and the company organized, at such time as they may fix, and any person may hold as many shares of the stock of said company as he may subscribe for, or may be assigned to him, and each stockholder shall have one vote for every share of stock held by him.

3. The said company is hereby authorized to construct a railroad from some point at or near the mouth of Hughes' creek, on the Great Kanawha river, or the Chesapeake and Ohio Railroad, to the

head of said creek, and shall commence the construction of said road within three years after the passage of this act, and complete the same within ten years to the head of said creek, or such point on the same as they may select as the terminus of said road.

4. The said company shall be subject to all the provisions and liabilities, and entitled to all the benefits, of the Code of Virginia, second edition, prescribing general regulations for the incorporation of said railroad company, especially such as are specified in chapter fifty-six, fifty-seven and seventy-one thereof, and all other general laws relating to railroad companies, except so far as the provisions of this act may be inconsistent therewith.

5. The said company are authorized to acquire by purchase, or in payment for subscriptions of stock, and hold, in fee simple, not more than twenty thousand acres of land, and to sell, mortgage, lease or otherwise dispose of the same at their pleasure, and make proper conveyances thereof.

6. The said company are authorized to engage in the manufacture of lumber and iron, and in the mining of coal and shipping the same to market, and for this purpose may own and employ steamboats, barges and other means of transportation.

7. The said company may borrow money at a rate of interest not exceeding ten per centum per annum, and may execute liens on their property and purchases for the purpose of securing the payment of any loans.

8. So much and such parts of the Code of Virginia hereinbefore mentioned. or of any other act or acts as may be inconsistent with

the provisions of this act, shall be held not to apply to the company hereby incorporated, so far as the same may in any way affect the charter hereby granted.

9. The Legislature reserves the right to alter or amend this act, but such alteration or amendment shall not affect or impair the rights of creditors of the corporation to have the property and assets thereof applied to the discharge of their respective claims, or of the stockholders to have the surplus which may remain after paying the debts and liabilities of the corporation, distributed among themselves according to their respective interests.

House Bill No. 58.

A BILL amending the charter of a road in Gilmer and Ritchie counties.

Be it enacted by the Legislature of West Virginia:

1. That the charter of the road leading from the Staunton and Parkersburg turnpike road at or near the forks of Horn creek in the county of Gilmer, to Pensboro in the county of Ritchie is hereby amended.

2. The grade of said road shall not be over five degrees and not less than twelve feet wide between the ditches. The capital stock of the company shall be twenty thousand dollars, in shares of ten dollars each. That they shall have power to organize when one thousand dollars shall have been subscribed.

3. The following commissioners are authorized to open books and keep them open as the law requires, at such places as they may think best, and to employ engineers, &c., and to proceed as the law directs: Philip Cox, Andrew Law, George Prichard, Archibald C. Bernard, Marhall M. Martin, Addison Rexroad and Scyclus Hall.

House Bill No. 59.

A BILL to provide for the establishment of a Deaf and Dumb Institution in this State.

Be it enacted by the Legislature of West Virginia:

1. That there shall be established on a site at such place as the Legislature may select, an institution to be called "The West Virginia Deaf and Dumb Institution," for the education of the deaf and dumb, which shall be under the government of visitors to be appointed annually by the president and directors of the literary fund, who shall notify them of their appointment, and prescribe a day for their first meeting, or in event of failure, for a subsequent one.

2. The said visitors, or a majority of them, shall appoint from their own body, a president to preside at their meetings and a secretord to record, attest and preserve their proceedings.

3. Such deaf mutes as may be placed in said institution, as hereinafter provided, shall be exclusively educated under so many professors, instructors and assistants as may be deemed necessary and expedient by the board of visitors.

4. The said visitors shall be charged with the erection, preservation and repair of the building, the care of the ground and appurtenances and of the interests of the institution generally. They shall have power to employ all necessary agents; to appoint and re-

move professors, (two-thirds of the whole number concurring in every case of removal,) to fix their compensation; prescribe their duties and the course of education in said school; to establish rules for the government and discipline of the pupils; to regulate tuition fees; to prescribe and control the duties and proceedings of all officers, servants and others, with respect to the building, lands appurtenances and other property and interests of the institution; to draw from the literary fund, in the treasury, such moneys as are or shall be charged by law for the benefit of the institution, and in general to do and direct all matters and things, which not being inconsistent with the Constitution and laws of the United States or of this State, shall seem to them most expedient for promoting the purposes and fulfilling the objects of said institution; which several functions they shall be free to exercise in form of by-laws, rules, resolutions, or otherwise as they shall deem proper.

5. The said visitors shall have such stated and occasional meetings as they shall themselves prescribe. A majority shall constitute a quorum for business, and all vacancies occuring by death, resignation, removal from the commonwealth, or failure to act for the space of four months shall be supplied by the appointing power.

6. The president and visitors shall be and they are hereby declared to be a body corporate, under the style and title of "The President and Visitors of the———Institution for the Deaf and Dumb," with the right, as such, to use a common seal, to plead and

be impleaded in all courts of justice and in all cases in which the interests of the institution are involved; and they shall be capable in law, and in trust for the institution, of receiving subscriptions, and donations real and personal, as well as from bodies corporate and persons associated as from private individuals.

7. The institution hereby established shall in all things and at all times, be subject to the control of the Legislature; and it shall be the duty of the board of visitors, annually, to make a report to the president and directors of the literary fund, which shall embrace a full account of the receipts and disbursements, the funds on hands and the general statement of the condition of said institution.

House Bill No. 60.

A BILL to authorize the Jailor of Ohio county to employ a guard for the jail of said county.

Be it enacted by the Legislature of West Virginia:

1. The Jailor of Ohio county is hereby authorized to employ a suitable person as a guard, at such times as he may deem necessary for the safe keeping of the state prisoners that may be lodged in the jail of said county. Provided that the amount of compensation shall not exceed two dollars per day.

2. The said per diem shall be paid monthly by the State treasurer, upon the account of the said Jailor, verified by affidavit.

House Bill No. 61.

A BILL to incorporate Cornstalk Tribe, No. 2, of the Improved Order of Red Men, in the city of Wheeling.

Be it enacted by the Legislature of West Virginia:

1. That Benard Shanley, William H. Travis, Francis Britt and such others as are now regularly associated with them, and such as may hereafter become regularly associated with them, are hereby created a body politic and corporate, under the name and style of "Cornstalk Tribe No. 2, of the Improved Order of Red Men," of the city of Wheeling, and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, and may purchase, sell and hold to them and their successors, for the charitable and benevolent purposes of said tribe, not exceeding two full lots of ground in said city of Wheeling, and not exceeding ten acres of land in the county of Ohio, and also such personal property and moneys as may be necessary for the purposes aforesaid.

2. The said Tribe shall be authorized to make all needful laws and regulations for the management of the property as a majority of said Tribe shall prescribe.

3. This act shall take effect from its passage, and may be altered, amended or repealed, at the pleasure of the Legislature.

House Bill No. 62.

A BILL to incorporate Saint George Lodge, No. of the Independent Order of Odd Fellows, in the village of Saint George.

Be it enacted by the Legislature of West Virginia:

1. That T. F. Hebb, J. J. Adams, A. H. Bowman, James Hooton, and John Dater and such others as are now regularly associated with them, and such as may hereafter become regularly associated with them, are hereby created a body politic and corporate, under the name and style of "St. George Lodge, No. of the Independent Order of Odd Fellows," in the village of St. George, Tucker county, and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, and may purchase, sell and hold to them and their successors, for the charitable and benevolent purposes of said lodge, not exceeding two full lots of ground in said village of St. George, and not exceeding six acres of land in the county of Tucker, and also such personal property and moneys as may be necessary for the purposes aforesaid.

2. The said lodge shall be authorized to make all needful laws and regulations for the management of the property, as a majority of said lodge may prescribe.

3. This act may be altered, amended or repealed, at the pleasure of the Legislature.

House Bill No. 63.

A BILL providing for the publication of one thousand copies of the Road Laws.

Be it enacted by the Legislature of West Virginia:

1. That one thousand copies of the road laws be published and distributed among the various road surveyors of the State, after the completion of the revision of the Code.

House Bill No. 64.

A BILL to limit the time in which the Board of Public Works may audit claims against the State of Virginia.

Be it enacted by the Legislature of West Virginia:

That the power to audit claims against the State of Virginia, conferred upon the Board of Public Works by chapter thirty-eight, of the acts of 1867, shall cease on the first day of October, 1868, provided, said Board shall not be prevented from auditing all claims received by them prior to said first day of October, 1868.

House Bill No. 65.

A BILL extending the time for the Sheriff of Mercer county to pay the revenue of 1867.

Be it enacted by the Legislature of West Virginia:

That the sheriff of Mercer county be allowed until the fifteenth day of June, eighteen hundred and sixty-eight, to pay into the treasury of this State the revenue assessed for the year one thousand eight hundred and sixty-seven.

House Bill No. 66.

A BILL providing for the collection of back taxes in the county of Cabell.

Be it enacted by the Legislature of West Virginia:

1. That John Alford, late sheriff of Cabell county, and his late deputies in said office, may enforce the payment of all the uncollected taxes and levies assessed and made in the said county of Cabell for the years 1861, 1862, 1863, 1864 and 1865, now in their hands for collection, by distress and sale of property, in the manner now provided by law. Such distress and sale may be made in that part of the county of Lincoln which was taken from the county of Cabell, as well as in the said county of Cabell.

2. The time in which the said Alford is required to account for the said taxes and levies, and also the taxes and levies of 1866, is hereby extended to the first day of January, 1869.

House Bill No. 67.

A BILL relating to the Exchange Bank of Virginia, at Weston.

Be it enacted by the Legislature of West Virginia:

1. That it shall be lawful for any debtor of The Exchange Bank of Virginia, at Weston, to pay their indebtedness, in whole or in part, other than indebtedness evidenced by stock notes, to said Exchange Bank at Weston, in any of the notes payable by and at said Bank at Weston.

2. That it shall be the duty of the officers and directors conducting and controlling said bank, to pay severally to the stockholders holding the five hundred and fifty-seven shares of the stock of the said bank, who reside in the State of West Virginia, which stock is evidenced by the books of said bank at Weston, on the 17th day of April, 1861, or to their legal representatives respectively, their said stock at par, with interest thereon, at the rate of six per centum per annum, from the first day of July, 1862; and they are further authorized to abate from the said stock and interest the amount of any stock-note founded on such stock, and interest thereon, together with any other indebtedness due or owing from persons holding any of said stock.

3. That it shall be the duty of said officers and directors, after said notes payable at said bank at Weston, and said stock, are adjusted as hereinbefore provided for, to pay over and deliver the balance of the assets, money, choses in action, property, rights,

credits, or other thing under the control, or otherwise held by the said Exchange Bank of Virginia, at Weston, to the assignee of the Exchange Bank of Virginia.

4. If the notes of The Exchange Bank of Virginia made payable at Weston, are not presented in payment of indebtedness, as hereinbefore directed, within three months after notice of acceptance by the board of The Exchange Bank of Virginia, at Norfolk, as hereinafter provided for, the same shall not thereafter be received in payment as aforesaid; and no action or proceeding for the recovery of the same shall be prosecuted, and to this end, R. J. McCandlish, cashier of said bank at Weston, shall cause to be published in two newspapers published in Wheeling, and in one or more other newspapers published in this State, a notice to the holders of such notes that they will not be so received after the expiration of said time. Such notice shall be published for at least four weeks successively before the expiration of said time.

5. The officers and directors of said bank at Weston shall continue in office until the business thereof shall be closed as directed by this act, and all the rights and remedies now existing for and in behalf of the branch of the said branch of the Exchange Bank of Virginia at Weston, for the collection of debts, or the enforcements of other causes of action, shall continue until all collections are made, or other causes enforced, and in the event of the transfer hereinbefore directed, suits may be prosecuted upon the several subjects of said transfer, in the name of the "The Exchange Bank of Virginia," for and in behalf of the assignee of The Exchange Bank of Virginia, or

otherwise, as directed by the law in force immediately preceding the passage of this act, and any part of any act inconsistent with this act, shall be deemed to be repealed.

6. That upon the expiration of the time provided for the redemption of said notes in payment of indebtedness, as herein provided for, the said transfer to said assignee shall be made.

7. This act shall not be construed to be in force until The Exchange Bank of Virginia, by order of its board of directors at Norfolk, Virginia, and the assignee of said bank, shall approve, accept and agree to the terms and provisions of the same, as a full and final adjustment of all pending suits, or other causes of action by The Exchange Bank of Virginia, or assignee of said bank, against the officers or directors of the said Exchange Bank of Virginia at Weston, or which seeks to recover any of the money, assets or other thing directed by this act, to be paid or transferred; provided such approval, acceptance and agreement shall be made, and the said officers and directors at Weston notified thereof against the first day of June, 1868.

House Bill No. 68.

A BILL concerning insolvent militia fines.

Be it enacted by the Legislature of West Virginia:

1. Any return of insolvent militia fines for the years 1860 to 1866, inclusive, authorized by law to be made by any sheriff or collector to a regimental court may be made to the board of supervisors for the county in which such fines were assessed; and it is hereby made the duty of any board of supervisors to whom such return shall be made, to examine the same, and if approved they shall cause their clerk to certify to the Auditor a list of such insolvents so approved.

2. The return mentioned in the preceding section shall be for each regiment and for each year separately.

3. Upon the receipt of a certified copy of a list of insolvents allowed under the provisions of the first section of this act, the Auditor shall compare the same with the list of fines filed in his office and if found correct shall enter the amount of the same to the credit of the sheriff or collector making the return.

House Bill No. 69.

A BILL creating a school district within the town of Morgantown.

Be it enacted by the Legislature of West Virginia:

1. The town of Morgantown and suburbs contained within the following boundaries, to-wit: Beginning at the mouth of Falling run, and up said run with its meanderings to the northeastern line of the lands of the Kiger heirs; thence with said line to the old road; thence across the hill to and including the house now occupied by B. H. Sear; thence in a straight line to the Deckers' creek bridge, near the old paper mill; thence to and including the Guseman property on the Kingwood pike; thence so the Fairmont road, including the property now owned by L. S. Jenkins: thence with said road to and including the county "poor house;" thence to the Monongahela river, and down the same to the southern line of the property of Joseph Kinkaid, on the west side of the river; thence with said line to its western terminus; thence in a straight line to the first mile-post on the Fairmont pike; thence down an old road to the river, and up the same to the place of beginning, shall constitute one school district; and the Board of Education thereof shall consist of five commissioners, who shall be elected by the resident voters of the district, and have exclusive control of all schools within the same.

2. The Board of Education of the school district of Morgantown, and their successors, shall be a body corporate by the name of "The Board of Education of the District of Morgantown," and shall be invested with the same rights, exercise the same powers, perform the

same duties, and be governed by the same laws as Boards of Education of townships, except so far as may be otherwise provided in this act. They shall elect one of their number as President and one as Secretary, and may allow a reasonable compensation to the Secretary for his services, to be paid out of the school fund.

3. The Board of Education shall be invested with the same rights, exercise the same powers, and perform the same duties as the trustees of school districts, so far as the same may be necessary for the prosperity and welfare of their schools, and they may close any school in their district whenever, in their opinion, the attendance of pupils will not justify the continuance of the same. The provisions of the general school law in relation to the election of trustees shall not be held to the district of Morgantown.

4. It shall be the duty of the Board of Education to determine, at an annual meeting to be held in the month of July, as near as practicable the amount of money necessary, in addition to all other available funds, to continue the schools of the district for the period of not less than eight school months, and they shall cause an amount to be assessed on all the taxable property of the district, and the same shall be levied, collected and disbursed in such manner, and at such rate of commission as they may determine.

5. The qualified voters of the school district of Morgantown shall, on the twenty-first day of March next, elect five commissioners as herein provided for, and the town council of Morgantown shall appoint three voters to conduct said election; and the annual election thereafter for said commissioners shall be held at the same time and place, and by the same officers, as the borough elections of the town of Morgantown.

House Bill No. 70.

A BILL for the incorporation of Harper's Ferry, in the county of Jefferson.

Be it enacted by the Legislature of West Virginia:

1. That the town of Harper's Ferry, in the county of Jefferson, shall be comprised within the following limits, to wit: Beginning at the confluence of the Potomac and Shenandoah rivers, running with the Potomac river west to the termination of the United States Government lines; thence with the said government line south till it intersects the Shenandoah river; thence across the canal, including what is usually called Throp's and Hall's islands; thence down the Shenandoah river, including the island of Virginius, to the beginning; and that it shall and may be lawful for the free white male citizens, residents of said town, above the age of twenty-one years, who are qualified to vote for members of the Legislature of West Virginia, to meet at School House No. , situated on Shenandoah street, in said town, on or before the day of one thousand eight hundred and sixty-nine, and then and there, (under the superintendence of the sheriff of Jefferson county, for the time being, or some one of his deputies, whose duty it shall be to conduct the election,) nominate and elect one fit person, being a resident in said town, to serve as mayor thereof; and one fit person, being a resident of said town, to serve as recorder thereof; and nine fit persons being residents and free-holders in said town, to serve as councilmen

of said town for one year, or until the next succeeding election, (provided they continue to live in said town,) and no longer, unless re-elected. The second election to be held under this act, shall be held at such places in the town of Harper's Ferry, and under the directions of such persons as the council may appoint. And it shall be the duty of the sheriff, or deputy sheriff, superintending the first election, and of the persons who may hereafter be appointed by the common council to superintend the elections hereafter to be held by virtue of this act, to notify the persons elected of the fact of their election, within five days thereafter. Every person who shall be elected mayor or recorder and common councilman, before he enters on the duties of his office, shall take an oath, or make solemn affirmation before a Justice of the Peace of the county of Jefferson, that he will faithfully and impartially, to the best of his skill and judgment, perform his duty as mayor, recorder or common councilman (as the case may be) of Harper's Ferry, according to law, and any mayor, recorder or common councilman failing to take such oath, or make such affirmation, within ten days after being elected, shall forfeit his office, and the same shall be considered vacant. The common councilmen chosen by virtue of this act, are hereby made a body corporate and politic, by the name of "The Common Councilmen of Harper's Ferry."

2. The common council, or a majority of the council, chosen by virtue of this act, have power to remove or abate nuisances within said town, or cause it to be done; to repair the public streets and alleys; to have wells dug in the said streets and alleys, when to the

said common council it may seem necessary, for the purpose of supplying with water the inhabitants of said town; and to do all things which may seem to them necessary or expedient for the same purpose; to make by-laws and ordinances for the regulation and government of the said town, and the same to amend, alter or repeal at their pleasure, and enforce obedience thereto by such penalty as they shall see fit, not exceeding twenty dollars for any one offence, recoverable by warrant before the mayor or recorder of said town, or before any justice of the peace of the county of Jefferson; provided such by-laws or ordinances be not repugnant to or inconsistent with the laws and constitution of this State or the United States. The said council, or a majority of the council, shall also have power to do, or cause to be done, all other things necessary for the benefit of the said town, and to assess taxes on the inhabitants of the said town, and on all property within the bounds of said town for the purposes aforesaid, and for such other purposes as the council shall think fit for the benefit of the said town; Provided, That the assessment and taxes aforesaid shall not exceed seventy-five cents on each titheable, and five per centum on the amount of annual rents of real property within said town in any one year, agreeably to the books of the commissioner of the revenue in Jefferson county, or in any other manner by which the information can be obtained.

3. The common council, or a majority of the council, shall have power, whenever it is deemed expedient, to have the footways, sidewalks, gutters, and such other parts of the streets and alleys of the said town, as they shall designate, paved, or otherwise suitably im-

proved or altered, at the expense or charge of either the owners or occupants of the lots or parts of lots, along the fronts or sides of which such footways, sidewalks, or other improvements extend. And in case the owner or owners, if he, she or they, reside out of the county of Jefferson, then the tenants or occupants of such lots or parts of lots, shall neglect or refuse to pave or otherwise suitably improve the same, when required, and according to the directions of the said council, it shall be lawful for the said council, or a majority thereof, to have the same paved and otherwise suitably improved, and to recover the expense thereof from such owner or occupier by motion, in a summary manner, before the mayor or recorder of said town, provided the sum sought to be recovered does not exceed twenty dollars, or before the county or circuit court of Jefferson county, where it exceeds twenty dollars; *Provided*, The said owners, tenants or occupants shall have ten days notice of such motion; or the said council, or a majority thereof, may impose upon the said owners, tenants or occupants, such reasonable fines or penalties, from time to time, as may be necessary to enforce obedience to any order or orders made, by the person or persons paying such fine or fines, and afterwards, if any surplus remain, to the general benefit of said town, in the same manner as money derived from the ordinary annual assessment.

4. And in all cases where a lessee or tenant shall be required to pave, or otherwise improve or alter any street or alley along the side or sides of the property by him occupied, and for which property, by the contract with his lessor or landlord, he shall be bound

or liable to pay rent, or shall be compelled to pay for such improvement, the expenditure by him incurred in making any such improvement, or in paying for the same, shall be a good and valid set off against so much of the rent due or accruing to his lessor or landlord.

5. All taxes assessed upon any vacant or unimproved lots in said town, and all such expenditures as may be incurred in making sidewalks, gutters and other improvements in front or along the sides of such vacant and unimproved lots, are hereby declared to constitute a lien upon such vacant and unimproved lots in the hands of the owner or his heirs, devisees, assignees, or any subsequent purchaser or other person claiming the same, and may be recovered by the said council from such subsequent purchaser or other person claiming the same, and may be recovered by the said council from such subsequent purchaser or other person entitled to such lot, in like manner as they might have been recovered from the original owner or occupier.

6. The said council shall have power to appoint one of the members thereof to preside at their meetings, and to act generally as president of the council, to continue in office during the pleasure of the council. The president, or, in his absence, any one of the councilmen who shall be appointed president *pro tempore*, shall have power to call a meeting of the council, whenever he shall think fit, a majority of whom may proceed to business. They shall keep a fair record of their proceedings, and accounts of moneys by the council received and disbursed, and shall annually publish in one or

more papers of the county of Jefferson, a statement of their receipts and expenditures.

7. Every councilman who shall refuse or neglect to meet when required, not having a reasonable excuse, (to be judged of by the council,) shall, for such refusal or neglect, forfeit and pay a fine not exceeding five dollars, to be collected by the collector hereinafter mentioned, as other assessments, and applied to the use of the said town.

8. In the event of the death, resignation, or refusal to act, or removal out of said town, or failure to qualify within the time required by the first section of this act, of the mayor or recorder or of any of the councilmen, the vacancy or vacancies occasioned thereby shall be supplied within fifteen days thereafter, by the persons qualified to vote at the election of councilmen, in like manner as the general elections are made; and in case of failure so to fill such vacancy or vacancies within the time aforesaid, the remaining councilmen, at their next meeting, shall appoint a person or persons to fill such vacancy or vacancies.

9. It shall be the duty of the members of the council, at the expiration of their term of office, to render a just account of their receipts and expenditures to their successors, and in case any balance shall remain unappropriated, to pay the same to their successors; and in failure thereof, it shall be lawful for the council for the time being to recover the same against their predecessors, (personally,) thus failing to pay, by motion in a summary way before the circuit court of Jefferson county, with interest, to be computed at the rate of six per centum per annum from the time at which the term of

office of the defendants expire. *Provided*, that the defendants in such motion have ten days previous notice thereof.

10. The said council shall have power, from time to time, to appoint a collector of taxes assessed by them, who, before entering on the duties of his office, shall give bond and security to the said council in a reasonable penalty, conditioned for the faithful performance of his duty as collector; and the said council shall have and use the same power in making collections as the sheriff of any county may have and use in collecting taxes.

11. It shall be the duty of every collector so appointed to pay into the council all moneys by him collected, except such commissions as may be allowed him, not exceeding six per centum on the amount of his collections; and for failing so to do, or for any failure or neglect of his duty as collector, the said council may recover, by motion, before the circuit or county court of Jefferson county, against such collector and his sureties, or any or either of them, their executors or administrators, any sum of, or sums of money collected by the collector and not paid over to the said council, or to the order of said council, together with any sum or sums of money which the said collector was bound to have collected, and yet failed to collect, with damages at the rate of ten per centum per annum, to be computed from the time when such money or moneys ought to have been paid over to the council, or to the order of the council; *Provided*, that the person or persons against whom such motion is made, shall have ten days' previous notice thereof.

12. The council shall meet at the school-house, No. —, on Shenandoah street, in Harper's Ferry, within ten days next after their election, and when qualified as this act directs, may proceed to execute the duties required thereby.

13. It shall be the duty of the sheriff of Jefferson county, for the time being, to give at least ten days notice by advertisement in one or more papers published in Jefferson county, of the first election to be held under this act, and the same notice shall be given in the same manner by the mayor of said town of any future election held under this act. And any sheriff, or other officer, failing to perform any duty required of him by this section, shall forfeit and pay the sum of fifty dollars for each failure, to be recovered by the said council, for the use of the said town, by warrant, before the mayor or recorder of said town.

14. The mayor and recorder, for the time being, are hereby constituted and declared to be justices of the peace within the limits of the said town, to have the like jurisdiction in all cases whatsoever originating within the said limits as the justices (singly) within this commonwealth now have, or may hereafter have. And it is hereby made the duty of the said mayor and recorder, and each of them, to suppress all disturbances, riots and disorderly conduct within the limits of said town. And any constable now in office, or who shall hereafter be appointed and qualified as the law directs, is hereby authorized and required to act as such during his continuance in office, in executing the judgments, and otherwise in obedience to the lawful mandates of said mayor and recorder, or either of them; *Provided*, that such constable shall be a resident within the limits of said town.

15. The council shall cause to be made a survey and plan of said town, as is required by the first section of the fifty-fourth Chapter of the Code of Virginia, and enter the said plan on some of their books and cause the same to be recorded as required by said section.

House Bill No. 71.

A BILL allowing and legalizing a mill dam across Piles Fork, of Buffalo creek, at the town of Mannington.

Be it enacted by the Legislature of West Virginia:

1. That the mill dam heretofore erected across Piles Fork, of Buffalo creek, at the town of Mannington, in the county of Marion, and now used by James O. Watson in connection with his grist mill thereat, be and the same is hereby allowed, legalized and established, and the said Watson, and those who may hereafter claim said mill property under him, may and are hereby authorized to continue and maintain the said mill dam, and shall have the exclusive property therein and use thereof for said mill, and for the purposes thereof.

2. Be it further enacted, that the said Watson, or those hereafter claiming said mill property under him, may, at pleasure, lower or raise said dam for the use and purposes of said mill. Provided, however, that the said dam shall in no event or at any time be over ten feet in height.

3. This act shall take effect and be in force from the day of its passage.

House Bill No. 72.

A BILL for the relief of Jacob W. Parsons.

Be it enacted by the Legislature of West Virginia:

That the Auditor of Public Accounts is hereby authorized in the settlement of the accounts of Jacob W. Parsons, sheriff of Tucker county, to allow said Parsons the sum of one hundred and seventy dollars, the amount of which Jacob Dumire, deputy of said Parsons, was robbed on the 27th of February, 1867.

House Bill No. 73.

A BILL to amend an act entitled "An Act to provide Free Schools for the town of Clarksburg," passed February 26th, 1867.

Be it enacted by the Legislature of West Virginia:

Chapter 92 of the acts of 1867, is hereby amended and re-enacted to read as follows:

9. The Board of Education for the school district of Clarksburg shall have power to appoint a secretary and treasurer for said district, requiring of them bond and security, in sufficient penalty, for the faithful performance of their duties.

10. The school commissioners of the Clarksburg school district shall be elected annually, at the annual election for trustees of the town of Clarksburg. Their terms of office and the filling of any vacancies that may occur, shall be governed by the general school law, passed February 27th, 1867.

11. The school commissioners of the Clarksburg school district shall provide by the first Monday in May, 1868, at the expense of said district a ballot box, marked 'Clarksburg School District,' to be used at the elections of said commissioners for voters of said district residing outside the corporate limits of the town of Clarksburg. The commissioners of election, appointed by the trustees of the town of Clarksburg, to conduct the election for trustees of said town, shall also conduct the election for school commissioners of the Clarksburg school district, and shall cause the clerks to record, separately, the

names of persons voting, who reside within the school district, but outside the corporate limits of said town, whose ballots shall be deposited in the ballot box marked, 'Clarksburg school district.'

12. The commissioners of election in making their returns of the election, to the trustees of the town of Clarksburg, shall distinguish between the vote cast by the town of Clarksburg and the remainder of the district, returning the ballots of each box reparately.

13. The trustees of the town of Clarksburg, shall declare the election for the office of school commissioner in the Clarksburg school district, according to the aggregate vote cast by said district.

House Bill No. 74.

A BILL to alter part of the division line between the counties of Hampshire and Mineral.

Be it enacted by the Legislature of West Virginia:

1. The division line between the counties of Hampshire and Mineral, is hereby altered so as to run as follows, to-wit: Beginning at the present course of Hampshire and Mineral counties in the Hardy line, running with said line between Hampshire and Hardy to the top of what is known as the "High Knob, or Mill Creek Mountain," thence leaving said line running along the top of said mountain to Mien's Gap, and crossing it, and with the same mountain range to a point opposite what is known as Hernott's divide, (between Hernott's and Hamilton's,) thence with said divide and the same course continued to the top of Middle Ridge, there intersecting the present line between the counties of Hampshire and Mineral, and thence running with the same to the Maryland line.

2. T. B. Carskadon, of the county of Mineral, and David Gibson, of the county of Hampshire, are hereby appointed commissioners to run the dividing line between the counties of Hampshire and Mineral as altered by this act. The said commissioners shall

have power to employ a competent surveyor, who shall run and mark the said line under their direction, and in case they differ, shall decide between them. The said surveyor shall make three plats of the boundary line run by him, one of which shall be delivered by the said commissioners to the recorder of each of the counties of Mineral and Hampshire, and the third one shall be delivered to the Secretary of the State, to be preserved by them in their respective offices.

3. The Board of Supervisors of Mineral county shall provide for the expenses of running and marking said line.

House Bill No. 75.

A BILL to amend an act entitled "An Act to incorporate the Town of Bruceton, in the county of Preston, passed February 18, 1860.

Be it enacted by the Legislature of West Virginia:

1. That section two of an act entitled "An Act to incorporate the Town of Bruceton, in the county of Preston," is hereby amended and re-enated so as to read as follows:

"2. The qualified voters of said town shall, on the third Saturday of March, in each year, elect a mayor and six trustees."

2. That said act be further amended by adding thereto the following as sections eight and nine:

8. The mayor shall be the chief executive officer of the town. He shall take care that the orders, by-laws, ordinances, acts and resolutions of the council are faithfully executed. He shall be *ex officio* a Justice and conservator of the peace within the town, and shall, within the same, possess and exercise all the powers and duties vested by law in a Justice of a township, except that he shall have no jurisdiction as such in civil cases. He shall have control of the police of the town, and may appoint special police officers whenever he deems it necessary; and it shall be his duty, especially, to see that the peace and good order of the town are preserved, and that persons and property therein are protected, and to this end he may cause the arrest and detention of all riotous and disorderly persons in the town before issuing his warrant therefor. He shall have

power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment, he may commit the party in default to the jail of the county in which such town is situated, until the fine or penalty and costs shall be paid; but the term of imprisonment in such case shall not exceed thirty days.

9. Whenever anything for which a State license is required is to be done in said town, the council may require a town license therefor, and may impose a tax thereon for the use of the town. But no license to sell strong or spirituous liquors, wine, beer, ale, porter, or drinks of like nature, within said town, shall be granted by the Board of Supervisors of the county of Preston, unless the person applying therefor shall produce to said Board of Supervisors the certificate of the council of said town of its consent to the granting of such license. The council may require from a person so licensed a bond, with sureties, payable to said town in such penalty and with such conditions as it may think proper, and may revoke such license at any time, if the conditions of said bond be broken.

House Bill No. 76.

A BILL constituting a certain part of the Ohio river, within Jackson county, a lawful fence.

Be it enacted by the Legislature of West Virginia:

1. So much of the bank of the Ohio river, within the county of Jackson, as is included within the following boundary, to-wit: Beginning at the lower line of the farm of John Moffit, (deceased,) thence down said river to Ripley's Landing, is hereby declared to be a lawful fence.

2. Any person or persons, who may open or cause to be opened, with the intention of permitting the same so to remain, any division fence between any of the fences included within the boundaries heretofore designated, shall be deemed guilty of a misdemeanor, and on conviction thereof before any justice of the township wherein the offence was committed, shall be fined in any sum not less than one nor more than ten dollars and costs; and, on default of payment, shall be imprisoned in the county jail not exceeding ten days, according to the aggravated nature of the offence.

House Bill No. 77.

A BILL declaring a certain part of Tug Fork of Big Sandy river a public highway.

Be it enacted by the Legislature of West Virginia:

That part of Tug Fork of Big Sandy river forming the boundary line between the State of Kentucky and West Virginia, from its mouth up said river to the State line, is hereby declared a public highway for the transportation of boats, lumber or other materials, and if any person make or cause to be made any fish trap, hedge or dam or obstruction therein, shall be liable to a fine of not less than five or more than one hundred dollars.

House Bill No. 78.

A BILL to incorporate the Point Pleasant and Mud Bridge Turnpike Company.

Be it enacted by the Legislature of West Virginia:

1. It shall be lawful to open books for receiving subscriptions to an amount not exceeding one thousand dollars, to be divided into shares of twenty-five dollars each, to constitute a joint capital stock for constructing a turnpike from the mouth of the Great Kanawha river, at Point Pleasant, thence down the same to the Gallipolis road, thence along said road by Daniel George's and thence to John M. Bollet's to George W. Summers', thence to Mud Bridge in Cabell county, or by such route as the corporation hereinafter provided may determine. Said books to be opened under the direction of George W. Summers, William Deal, William Sturgeon, Gideon Brown, John Haudeysee, Isaac H. Ball, John M. Ball, Archibald Campbell, Charles H. Baughn, E. M. Rollins, George Fadley, George R. Henry, James E. Clendenen and Charles T. Beall, or any two or more of them, at such place and at such times as a majority of the above commissioners may appoint, ten days notice thereof being previously given in a newspaper published in Point Pleasant, and if two papers be published there, in both of said papers. The townships along said line may subscribe to said stock by a majority of the legal votes in any of said townships

voting for the same, but no township shall take more stock than ten per cent upon the one hundred dollars valuation of property, personal and real, and ten days notice shall be given of the intention to vote for said subscription, by publishing the same in the county newspaper, if any, and ten conspicuous public places in each township before such vote shall be taken. When ten thousand dollars of the capital stock shall have been subscribed, then the subscribers, their executors, administrators and assigns or successors shall be incorporated by the name of "The Point Pleasant and Mud Bridge Turnpike Company." The said turnpike road shall be open not less than thirty (30) feet wide.

2. It may be located at such grade as the company may deem most expedient, and the said corporation shall be subject to the provisions of the Code of Virginia, second edition, relating to turnpike companies. The said corporation shall elect a Board of Directors for the management of the affairs of the said road, and make such by-laws and regulations as may be necessary for the government of the same. The said company may erect gates upon said road and collect tolls thereon not exceeding those now allowed by law, and said tolls shall first be applied to keeping the said road in good repair, before any dividend shall be paid to the stockholders. The supervisors of any township that may take stock in said road, shall represent the township in all business and constitute one of the Board of Directors of said company.

House Bill No. 79.

A BILL to prevent the destruction of Rabbits in the county of Ohio.

Be it enacted by the Legislature of West Virginia:

1. That it shall not be lawful for any person or persons to hunt or catch rabbits, in the county of Ohio, with or by the use of an animal called the ferret.

2. Any person or persons violating the provisions of the foregoing section of this act, shall be subject to a fine of not less than five nor more than ten dollars for each separate offence, recoverable before any justice of the peace in the township in which the offence was committed, together with the cost of said prosecution; one-half of said fine to go to the informer, and one-half to the school fund of said county.

House Bill No. 80.

A BILL allowing the Board of Superviscrs of Morgan county to exempt her citizens from performing labor on public roads.

Be it enacted by the Legislature of West Virginia:

The Board of Supervisors of Morgan county in this State, may exempt the male inhabitants, citizens of said county of Morgan, between the ages of twenty-one and fifty years, by levying a head tax on each person so exempt, annually, said tax not to exceed the sum of one dollar and fifty cents to any one person so taxed in any one year. Said tax to be collected as prescribed by said Board, for opening and keeping in repair the public roads of said county of Morgan. The acts passed December 4th, 1863, and February 28, 1867, in conflict with this act are hereby repealed.

House Bill No. 81.

A BILL authorizing taxes erroneously assessed against Solomon Harper of Ritchie county, to be refunded.

Be it enacted by the Legislature of West Virginia:

That the Auditor of Public Accounts is directed to refund to Solomon Harper, seven dollars and thirty cents state tax, and the Board of Supervisors of Ritchie county are empowered to refund twenty-eight dollars and seventeen cents, (28.17,) erroneously assessed on one hundred and twenty acres of land, for the year 1866.

House Bill No. 82.

A BILL to repeal section 48, of chapter 118 of the acts of 1863.

Be it enacted by the Legislature of West Virginia:

That section forty-eight, of chapter one hundred and eighteen of the acts of eighteen hundred and sixty-three is hereby repealed.

House Bill No. 83.

A BILL extending the time for the sheriffs of Monroe and Greenbrier counties to pay the revenue of 1865, 1866 and 1867.

Be it enacted by the Legislature of West Virginia:

That the sheriffs of the counties of Monroe and Greenbrier are allowed until the first day of December, 1868, to collect and pay into the Treasury, the state and school taxes of said counties for the years 1865, 1866, and 1867; but such extension of time shall not impair the liability of the said sheriffs and their securities for the payment of the taxes in case of any default of the said sheriffs in the collection or payment thereof, but the said sheriffs and their securities shall remain liable to the payment of said taxes, in the same manner and to the same extent as if this act had not passed.

House Bill No. 84.

A BILL to amend and re-enact section 5, of chapter 274, of the Acts of 1860, passed by the General Assembly of the State of Virginia.

Be it enacted by the Legislature of West Virginia:

Section five of chapter two hundred and seventy-four of the acts of 1860, passed by the General Assembly of the State of Virginia, is hereby amended and re-enacted so as to read as follows:

5. The said commissioners of the sinking fund shall be and they are hereby required, authorized and empowered, out of the moneys by them received from the sheriff of said county, to pay the semi-annual interest on the bonds issued under this act, and after the payment of the said interest, shall, from time to time, invest the surplus of said fund in the purchase of the bonds authorized by this act; provided, the same can be purchased at not exceeding par; but if the said bonds cannot be purchased at their par value, then shall the said commissioners invest the surplus of said fund in such securities as the board of supervisors of Ohio county may direct, which said securities, so purchased, shall be by them held as a part of the sinking fund, with power to sell and re-invest, and shall be alone applicable to the payment of the principal and interest of the bonds issued under this act. The said commissioners shall, at the June meeting of the said board of supervisors for Ohio county, in every year, present to the said board a full and minute report of their receipts and disbursments for or on account of the said sinking fund, submitting therewith, for the inspection of said board, the bonds redeemed by them, and such bonds of the State of Virginia as they may from time to time have purchased under this act.

House Bill No. 85.

A BILL to repeal chapter 79, of the acts of 1865, entitled "An Act to prevent the prosecution of suits and the suing out of process by persons engaged in rebellion."

Be it enacted by the Legislature of West Virginia:

Chapter 79 of the acts of 1865, entitled "An Act to prevent the prosecution of suits and the suing out of process by persons engaged in rebellion," is hereby repealed.

House Bill No. 86.

A BILL to prevent trespass on lands.

Be it enacted by the Legislature of West Virginia:

Any person who shall go on the lands of others, in any of the counties of this State, for the purpose of hunting or fowling, or shall permit their stock to range on the lands of others, shall be fined by the justice of the township in which the offence has been committed, for the first offence, one dollar, and for each succeeding offence, two dollars, but this act shall not be applicable to any person who has not been forbidden in writing, by the owner of such land, nor shall it apply to any lands not under fence.

House Bill No. 87.

A BILL regulating the publication of legal advertisements.

Be it enacted by the Legislature of West Virginia:

That orders of publication and other legal advertisements shall be published in some newspaper in the county in which such order or advertisement is made or directed, if a newspaper is published in said county, unless the court in which the same is made or directed shall otherwise order.

House Bill No. 89.

A BILL repealing chapter 86 of the acts of 1867.

Be it enacted by the Legislature of West Virginia:

That chapter eighty-six of the acts of eighteen hundred and sixty-seven entitled "An Act permanently locating the county seat of Mercer county," be and the same is hereby repealed.

House Bill No. 90.

A BILL to authorize the construction of a bridge over the Potomac river between Piedmont and Westernport, Maryland.

Be it enacted by the Legislature of West Virginia:

1. That Henry G. Davis, John Hartel, Thomas Paxton, William Heck, William H. Miller and Stephen W. Downey, be and they are hereby constituted and appointed commissioners, with full power and authority to contract for the building of a bridge over the Potomac river, at such point between the town of Piedmont, in Mineral county, and Westernport, Maryland, as they, or a majority of them, may deem most suitable and convenient, on such plan as they, or a majority of them, shall adopt as most practicable; and are likewise authorized to receive and collect contributions and appropriations sufficient to enable them to pay for said bridge.

2. That said commissioners, or a majority of them, are hereby empowered to acquire by purchase or otherwise, such lands as may be necessary to construct the abutments for said bridge, as well as to secure the right of way for roads leading to and from said bridge, to enable all species of travel to reach the same at either terminus.

3. That the supervisors of Mineral county are hereby empowered to issue county bonds, to the amount of four thousand dollars, payable in one, two, three and five years, to be appropriated for the building of said bridge.

House Bill No. 91.

A BILL granting the Minerals under a certain part of the bed of the Ohio river.

Be it enacted by the Legislature of West Virginia:

1. The right to all the minerals under three hundred acres of the bed of the Ohio river, is hereby granted to J. H. Atkinson and John Campbell, beginning at a point designated as the corner on the Ohio river of lands of the heirs of James S. Porter and J. H. Atkinson, adjacent to the town of New Cumberland, Hancock county, and extending northward and up said stream so as to include three hundred acres as aforesaid; provided, however, that if the said J. H. Atkinson and John Campbell shall fail to open and develope said minerals within the next three years, then this grant shall be null and void. And, provided further, that the said J. H. Atkinson and John Campbell, in mining and shafting for the minerals mentioned in this act, shall not in any way obstruct the free navigation of the Ohio river.

House Bill No. 92.

A BILL concerning the assessments of certain shares in National Banks.

Be it enacted by the Legislature of West Virginia:

1. The assessor shall call upon the cashier or president of every National Bank in his district, when making his annual assessment, and require him, under oath, to state the number of shares in said bank owned by persons not resident in this State, and the names of such persons.

2. The assessor shall charge on his property book, to the persons owning such shares, the amount thereof for the purpose of taxation.

3. It shall be the duty of such bank officer to pay to the collecting officers of the county and township in which such bank is located, the amount of taxes charged against such non-resident shareholders, which amount it shall be lawful for such bank officer to retain out of the earnings of such shares.

House Bill No. 93.

A BILL to amend and re-enact section two of chapter 182 of the Code of Virginia, second edition.

Be it enacted by the Legislature of West Virginia:

That section two of chapter one hundred and eighty-two of the Code of Virginia, second edition, be and the same is hereby amended and re-enacted so as to read as follows:

2. Any person who is a party to any such controversy, or to any case in chancery wherein there is a decree or order granting or dissolving an injunction, or requiring money to be paid, or the possession or title of property to be changed, or adjudicating the principles of the cause, or to any civil case, whether it be an action at law or suit in equity wherein there is a final judgment, decree or order granting a new trial or re-hearing, may present a petition, if the case be in chancery, to the court of appeals, or to any judge thereof in vacation, for an appeal from the decree or order; and if not in chancery, for a writ of error or supersedeas to the judgment or order, except as follows:

House Bill No. 94.

A BILL to change the times of holding the Courts in the Sixth Circuit.

Be it enacted by the Legislature of West Virginia:

1. The Sixth Judicial Circuit shall be composed of the counties of Wood, Jackson, Roane, Calhoun and Wirt, and the commencement of the terms of the circuit court therein, instead of being as heretofore prescribed by law, shall be as follows:

For the county of Wood, on the tenth day of February and the tenth day of May; the twenty-fifth day of August and the twenty-fifth day of October.

For the county of Jackson, on the fifth day of March and the fifth day of June; on the fifteenth day of September and the fifteenth day of November.

For the county of Roane, on the seventeenth day of March and the seventeenth day of June; on the twenty-seventh day of September and the seventeenth day of November.

For the county of Calhoun, on the twenty-sixth day of March and the twenty-sixth day of June; on the sixth day of October and the sixth day of December:

For the county of Wirt, on the third day of April and third day of July; on the fourteenth day of October and fourteenth day of December.

House Bill No. 95.

A BILL for the relief of James O'Harra.

Be it enacted by the Legislature of West Virginia :

That it shall be lawful for James O'Harra of the county of Roane to teach in any free school in this State without taking the oath prescribed by the act passed November 16, 1863, entitled "An Act to amend and re-enact the first section of an act entitled "An Act concerning oaths and affirmations," passed June 26, 1863.

House Bill No. 96.

A BILL incorporating the town of Frankfort, in the county of Greenbrier.

Be it enacted by the Legislature of West Virginia:

1. The corporate limits and boundaries of "The Town of Frankfort," in the county of Greenbrier, shall be as follows: Beginning at a white oak by the spring near T. A. Bell; thence a north course along the line between R. Gilliland and J. A. Arbuckle, and the parsonage lot, to a stake corner to Ludigton, and with the parsonage lot a west course, extending the line to the turnpike and with same, and after leaving the same, the same course continued sixty poles further to a stake in E. F. Callison's lot; thence an easterly course, the bearing to include the house and lot of Dr. E. F. Callison and William Moore, to the turnpike leading to Lewisburg, and with same to the beginning.

2. The municipal authorities of said town shall be a mayor, a recorder and five councilmen, who together shall form a common council.

3. The mayor, recorder and councilmen, so soon as they have been elected and qualified, as hereinafter provided, shall be a body politic and corporate, by the name of "The Town of Frankfort," and shall have perpetual succession, and a common seal; and by that name may sue and be sued, implead and be impleaded; may purchase and hold real estate necessary to enable them the better to discharge

their duties, and needful for the good order, government and welfare of said town.

4. All the corporate powers of said corporation shall be exercised by said council, or under their authority, except where otherwise provided.

5. There shall be a town sergeant, a treasurer and commissioner of the revenue appointed by the council, to continue in office at its pleasure, and perform the duties respectively, as hereinafter prescribed, or as may be required by the council.

6. The duties of the office of recorder, treasurer and commissioner of the revenue may be discharged by the same person, or otherwise, as the council from time to time may determine.

7. The mayor, recorder and councilmen shall be elected by the citizens of said town, who may be entitled to vote under this act, and (except to fill vacancies) for the term of one year, and until their successors shall have been qualified, and shall be freeholders and residents of said town, and entitled to vote for members of the common council.

8. The first election under this act shall be held on the fourth Thursday in eighteen hundred and sixty-eight, at the usual place of voting in said town, under the supervision of a justice of said township; and annually thereafter there shall be an election on the same day in each year, at such place and under such supervision, rules and regulations as the council of said town may prescribe. The person conducting the first election shall grant certificates to the persons elected, which shall be entered upon the

records, with the ordinances of said council, and their terms of office shall commence on the second Monday of June next after election.

9. All persons residents of said town, entitled to vote for county and township officers shall be entitled to vote for mayor, recorder and councilmen.

10. When a vacancy shall occur from any cause in the office of mayor, recorder, or in the council, the vacancy shall be filled by appointment by the council.

11. At all elections the vote shall be by ballot, and when two or more persons for the same affice, at any election, shall receive an equal number of votes, the person or persons conducting such election shall decide which of the said persons shall be returned elected; and all contested elections shall be heard and determined by the council for the time being.

12. The mayor, recorder, councilmen, sergeant, treasurer and commissioner of the revenue, shall each, before entering upon the duties of his office and within ten days after being furnished with a certificate of his election, take and subscribe the oath of loyalty prescribed for county and township officers, and that they will faithfully and impartially discharge the duties of their said offices, respectively, to the best of their abilities, so long as they continue therein. The recorder shall take such oath or affirmation before a justice, or other officer authorized to administer oaths, nnd thereupon he shall administer the oaths aforesaid to the other officers and councilmen. Certificates of the said oaths or affirmations shall be recorded in the journal of the proceedings of the council.

13. When any four of the newly elected councilmen shall have been so qualified, they shall enter upon the duties of their said offices and supercede the former councilmen.

14. If any one elected mayor, recorder or councilman shall not have been eligible or shall fail or refuse to take the oath or affirmation required under this act, within the ten days aforesaid, such office shall be declared vacant, and the vacancy filled as hereinbefore prescribed, but in all cases from among the citizens of the town eligible to such office or position under this act.

15. The council shall be presided over at its meetings by the mayor, or, in his absence, by one of the councilmen selected by a majority of the council present, and a majority of the council shall be necessary to constitute a quorum to do business.

16. The council shall cause to be kept in a journal an accurate record of all its proceedings, by-laws and orders, which shall be fully indexed and open to the inspection of the voters in the town.

17. The proceedings of the last meeting shall be read in the council, corrected when necessary, and signed by the person presiding for the time being. Upon the call of any member, the yeas and nays on any question shall be called and recorded in the journal. The mayor, though voting as a member of the council, in cases of a tie shall have the casting vote.

18. The council, so constituted, shall have the power within said town to lay off, open, curb and pave the streets, alleys, walks and gutters, for the public use; and to alter, improve and light the same, and have them kept in order, and free from obstructions on or

over them; to regulate the width of sidewalks and streets, and to order the sidewalks, footways and gutters to be curbed, paved and kept in good order, free and clean, by the owners or occupants of the adjacent property; to lay off public grounds, and provide for and take care of public buildings proper to the town; to prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome; to abate, or cause to be abated, anything which, in the opinion of a majority of the whole council, shall be a nuisance; to regulate the keeping of gunpowder and other combustibles; to provide for the burial of the dead, and for the same purpose may purchase and hold the neeessary land for a cemetery near or convenient to said town, and provide for its improvement and security; to provide for the regular building of houses and other structures in or for said town; for the making of division fences, and to provide for shade and ornamental trees, and against danger or damage from fires or contageous diseases; to provide a revenue for the town, and appropriate the same, and to provide for the annual assessment of the taxable persons and property of the town; to adopt rules for the transaction of business, and the government and regulation of its own body; to provide for the general welfare of the town, and protect the property and preserve peace and good order therein; to keep a town guard; to appoint and order out a patrol for the town, when deemed necessary; to appoint such officers as they may deem proper, including a sergeant, commissioner of the revenue and treasurer; to define their powers, prescribe their duties, fix their term of service and compensation, require and take from

them bonds, with such sureties and in such penalties as the council may determine, conditioned for the true and faithful discharge of their duties, and remove them at pleasure, (all bonds to be made payable to the town by its corporate name) to erect or authorize or prohibit the erection of gas works or water works in or near the town; to prevent injury to or pollution of the same; for all of which purposes named in this clause, except that of taxation, the council shall have jurisdiction for one mile beyond the borough; to regulate and provide for weighing and measuring of hay, coal and other articles sold, or for sale, in said town, and to regulate the transportation thereof through the streets, and generally to do such things as the council shall deem necessary for the interests, prosperity, peace and good order of the citizens of said town.

19. To carry into effect these enumerated powers, and all others conferred upon the said town or its council, expressly, or by implication, in this or any other acts of the Legislature, the council shall have power to adopt and enforce all needful orders, by-laws and ordinances not contrary to the constitution and laws of this State, and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment for a term not exceeding thirty days, under the judgment and order of the mayor of said town, or the person lawfully exercising his functions. The council, with the consent of the supervisors of Greenbrier county, entered of record, may have the right to use the jail of said county for any purpose necessary in the administration of its affairs.

20. The annual levy ordered by the council may be upon all male

persons within said town over eighteen years of age, dogs, hogs and other animals, and on all real estate within said town which is not exempt from State taxation, and all such other subjects in said town as may at the time be assessed with State taxes, provided the tax do not exceed one dollar on every hundred dollars of value of unimproved lots, and seventy-five cents on every one hundred dollars value of real and personal property, or two dollars per head on each taxable person.

21. Anything for which a State license is required, to be done in said town, the council may require a town license to be had for so doing the same, and may impose a tax thereon for the use of the town; and the council may, in any case, require from the person so licensed a bond, with sureties, in such penalties and with such conditions as it may determine.

22. The sergeant shall collect the town taxes, fines, levies and licenses, and after thirty days from the time he may receive the books of the commissioner of the revenue of said town, may distrain and sell therefor, in like manner as a sheriff may for State taxes, and shall in all respects have the same powers as a sheriff to enforce the payment and collection thereof, and shall, within the corporate limits of the town, exercise all the duties that a constable can legally exercise in regard to the collection of claims, executing and levying process, and shall be entitled to the same compensation therefor; and he and his sureties shall be liable to all the fines, penalties and forfeitures that a constable is legally liable to for any failure or dereliction in said office, to be recovered in the same man

ner and before the same tribunals that the same are now recovered against constables.

23. There shall be a lien upon real estate for the town taxes assessed thereon, from the commencement of the year for which they are assessed, and the council may order and require the same to be sold or rented by the sergeaut at public auction for the arrears, with interest thereon, with such per centum as the council may prescribe, for charges and expenses thereof. And may regulate the terms upon and the time within which the same may be redeemed. No such sale or renting shall be ordered until such realty be returned delinquent, and the sale shall be after thirty days' notice, posted at the hotel and post office in said town.

24. The council may prohibit any theatrical or other performance, show or exhibition it may deem injurious to the morals or good order of the town.

25. The mayor shall be the chief executive officer of the town, shall take care that the by-laws, ordinances, and orders of the council are faithfully executed; shall be *ex officio* a conservator and justice of the peace of the town; and shall, within the same, exercise all the powers and duties vested in justices; shall control the police of the town, and may appoint special police officers; shall see that peace and good order are preserved, and that the persons and property are protected in the town; and shall have power to issue executions for all fines and costs imposed by him, or may require the immediate payment of them, and in default or such payment, may commit the party in default to jail until the fine and costs are paid,

but the term of imprisonment in such cases shall not exceed thirty days. He shall, from time to time, recommend to the council such measures as he may deem needful for the welfare of the town, and shall receive a compensation for his services, fixed by the council, which shall not be increased or diminished for the term for which he is elected.

26. The recorder shall keep a journal of the proceedings of the council, and have charge of and preserve the records of the town, and shall receive a compensation for his services, to be fixed by the council, which shall not be increased or diminished for the term for which he was elected.

27. All money belonging to the said town shall be paid over to the treasurer, who shall pay the same out on the order of the mayor, countersigned by the recorder, and not otherwise; and for any default or liability upon the part of the treasurer or sergeant, the council in the corporate name of said town may, on motion, after ten days' notice, obtain judgment before the circuit court of said county, on account thereof, against them and their sureties respectively, or any or either of them, or their heirs or legal representatives.

28. The said town and taxable persons and property therein shall be exempt from all expenses or liability for the construction or repair of roads or bridges outside the corporate limits of said town.

House Bill No. 97.

A BILL incorporating the village of Kanawha City, in the county of Kanawha.

Be it enacted by the Legislature of West Virginia:

1. That the place known as the town of Coalsmouth, in the county of Kanawha, be and the same is hereby made a village corporate and body politic, by the name of "The Village of Kanawha City," and as such shall have perpetual succession, and a common seal; and by that name may sue and be sued, plead and be impleaded, and purchase, lease and hold real and personal property necessary to the purposes of said corporation.

2. The corporate limits of said village shall be as follows, viz: Beginning on the Kanawha river at low water mark, at the corner of the land between James F. Hansford and Mrs. Elizabeth H. Thompson; thence along the division line of said lands in a southerly direction to Coal river, at low water mark; thence down Coal river, at low water mark to the Kanawha river; thence up the Kanawha river, at low water mark, to the beginning.

3. The municipal authorities of said village shall be a mayor, recorder and five councilmen, who, together, shall form a common council.

4. All the corporate powers of the said corporation shall be exercised by the said council, or under their authority, except where otherwise provided.

5. The mayor, recorder and councilmen must be freeholders in said village, and entitled to vote for members of its common council.

6. Their term of office shall be for one year, and until their successors shall have been elected and qualified, as hereinafter provided.

7. The mayor, recorder and councilmen shall be elected by the citizens of said village, who may be entitled to vote under this act.

8. The first election under this act shall be held on the fourth Thursday in April, 1868. at the school-house, under the supervision of John S. Cunningham, William Webb, D. J. Lewis, R. H. Lee and J. S. Sims, or any three of them; and annually thereafter there shall be an election on the same day in each year, at such place and under such supervision, rules and regulations as the council of the said village may prescribe. The persons conducting the first election under this act shall grant a certificate to the persons elected, which certificate shall be recorded among the records of said village. If, from any cause, the first election shall not be held on the day herein specified, the same may be held on any subsequent day, upon ten days' notice thereof being posted on the front door of said school house, by any three of the qualified voters of said village, under the superintendence of the persons aforesaid, or under the superintendence of any three voters of said village appointed for that purpose by the voters present. But the term of office of the persons elected on such subsequent day shall be held to commence on the said fourth Thursday in April, 1868.

9. All persons who have had their domicil in the said village for six months next preceding the day of election, who are qualified to vote for members of the Legislature of this State, and none others, shall be entitled to vote for all officers elected by the people under this act.

10. At all elections the vote shall be given by ballot.

11. Whenever two or more persons shall receive an equal number of votes for the same office, the persons under whose supervision the election is held, shall decide which of them shall be returned as elected, and shall make their return accordingly.

12. All contested elections shall be heard and decided by the council for the time being.

13. Whenever a vacancy shall occur, from any cause, in the office of mayor, recorder or councilman, the council for the time being shall, by a vote of the majority of those present, fill the vacancy for the unexpired term.

14. There shall be a constable, treasurer, an assessor, and a superintendent of roads, streets and alleys of the said village, who shall be appointed by the council thereof, and hold their offices during the pleasure of said council. The duties of recorder, treasurer and assessor may be discharged by the same person, or otherwise, as the council may from time to time determine.

15. The mayor, recorder and councilmen shall each, before entering upon the duties of their offices, and within one month from the date of their election or appointment, take the oath prescribed by law for all officers of this State, and make oath or affirmation that

they will truly, faithfully and impartially, to the best of their abilities, discharge the duties of their respective offices so long as they shall continue therein. Said oath or affirmation may be taken before any person authorized to administer oaths under the laws now in force, or before the mayor or recorder of said village.

16. Whenever any three of the newly elected councilmen shall have been so qualified, they shall enter upon the duties of their said office, and supercede the former councilmen.

17. The mayor, recorder, and all other officers provided for in this act, shall enter upon the duties of their offices as soon as they are qualified, and shall continue therein until their successors are elected and qualified.

18. If any person elected to the office of mayor, recorder or councilman shall not be eligible to such office under the provisions of this act, or shall fail to qualify as herein required, the council for the time being shall declare his said office vacant, and shall proceed to fill the vacancy as required by this act.

19. The council shall be presided over at its meetings by the mayor, or, in his absence, by the recorder, or, in the absence of both mayor and recorder, by one of the councilmen selected by a majority of the council present.

20. The presence of a majority of the council shall be necessary to make a quorum for the transaction of business.

21. The council shall cause to be kept, in a well-bound book, an accurate record of all its proceedings, by-laws, acts, orders and reso-

lutions, which shall be fully indexed, and open to the inspection of any one who is required to pay in tax to said corporation.

22. At each meeting of the council, the proceedings of the last meeting shall be read and corrected, if erroneous, and signed by the presiding officer for the time being. Upon the call of any member, the yeas and nays on any question shall be taken and recorded in the journal.

23. The mayor and recorder shall have votes as members of the council, and, in cases of a tie, the presiding officer for the time being shall have the casting vote.

24. The said village, within the corporate limits aforesaid, shall constitute a separate road and school district of the said county of Kanawha, and the said council shall constitute the board of education of said school district. Said board of education shall have all the powers and perform all the duties, within the said corporation, as are conferred upon and required of township boards of education and trustees of school districts, and shall be subject to the same liabilities, pains and penalties of such boards and trustees.

25. The said council shall have power within the said village to lay off, open, close, alter, curb, pave and keep in good repair roads, streets, alleys, sidewalks, crosswalks, drains and gutters, for the public use, and to improve and light the same, and have them kept free from obstructions on or over them; to regulate the width of sidewalks on the streets, and to order the sidewalks, footways and gutters to be curbed and paved, and kept in good order, free and clean, by the owners or occupants thereof, or of the real property next adja-

cent thereto; to purchase, or otherwise procure, so much land, not exceeding five acres, as they may deem necessary for the erection of school houses and other buildings proper for the use of said village, and to contract for, build, enclose, ornament and take care of all such buildings; to establish and regulate markets; to prescribe the times of holding the same, and what articles shall be sold only in such markets; to prevent injury or annoyance to the public or individuals, from anything dangerous, offensive or unwholesome; to prevent hogs, cattle, horses, sheep and other animals, and fowls of all kinds, from going at large in said village; to protect places of divine worship in and about the premises where held; to abate, or cause to be abated, anything which, in the opinion of a majority of the whole council, shall be a nuisance; to regulate the keeping of gunpowder and other combustibles; to provide in or near the village places for the burial of the dead, and to regulate interments in the village; to provide for the regular building of houses or other structures, and for the making of division fences by the owners of adjacent premises, and the drainage of lots by proper drains and ditches; to make regulations for guarding against danger or damage from fires; to protect the persons and property of the citizens of said village, and to preserve the peace and good order therein, and for this purpose to appoint, when necessary, a police force to assist the constable in the discharge of his duties; to prescribe the powers and define the duties of the officers appointed by the council, fix their term of service and compensation, require and take from them bonds, where deemed necessary, payable to said village in its cor-

porate name, with such sureties, and in such penalty, as the council may see fit, conditioned for the true and faithful discharge of their duties; to erect or authorize, or prohibit, the erection of gas works or water works in or near the village; to prevent injuries to or pollution of the same, or to the water and healthfulness of the village; to regulate and provide for the weighing of hay, coal, and other articles sold, or for sale, in said village, and to regulate the transportation thereof through the streets; to provide a revenue for the said village, and appropriate the same to its expenses; to provide for the annual assessment of taxable persons and property in the village; to adopt rules for the transaction of business, and for the government and regulation of its own body; for all which purposes, except that of taxation, the council shall have jurisdiction, when necessary, for one mile beyond the corporate limits of said village.

26. To carry into effect these enumerated powers, and all other powers conferred upon the said village or its council, expressly or by implication, by this or any future act of the Legislature of this State, the council shall have power to make and pass all needful orders, by-laws, ordinances, resolutions, rules and regulations, not contrary to the constitution and laws of this State, and to prescribe, impose and exact reasonable fines, penalties and imprisonment in the county jail for a term not exceeding thirty days, for violations thereof; such fines, penalties and imprisonment shall be recovered and enforced under the judgment of the mayor of said village, or the person lawfully exercising his functions. And the authorities of the said village may, with the consent of the board of supervisors

of the said county, entered of record, use the jail of the said county of Kanawha for any purposes for which the use of a jail may be needed by them, under the acts of the council or of the State.

27. The council shall cause to be annually made up and entered upon its journal, an accurate estimate of all sums which are or may become lawfully chargeable on said village, and which ought to be paid within one year; and it shall order a village levy of so much as may, in its opinion, be necessary to pay the same.

28. The levy so ordered shall be upon all male persons, residents of said village, over the age of twenty-one years, dogs, and all real and personal estate within said village subject to State or county taxes; provided, that the tax so levied upon property do not exceed one dollar on every hundred dollars of the value thereof, and upon persons two dollars per head.

29. Whenever anything for which a State license is required, is to be done within the said village, the council may require a village license therefor, and may impose a tax thereon for the use of the village; but no license to sell strong or spirituous liquors, or wine, beer, ale, porter, or drinks of like nature, within the said village, or within one mile of the corporate limits thereof, shall be granted by the board of supervisors of the county of Kanawha, unless the person applying therefor shall produce to said board the certificate of the council of said village of its consent to the granting of such license. The council may require from the person so licensed, a bond, with sureties, payable to said village, in such penalty and

with such condition as it may think proper, and may revoke such license at any time, if the condition of said bond be broken.

30. If the owner or occupant of any sidewalk, footway, or gutter, in said village, or of the real property next adjacent thereto, shall fail or refuse to curb, pave, or keep the same clean, in the manner and within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the said village, and to assess the amount of such expense upon such owner or occupant, and the same may be collected by the village constable in the manner herein provided for the collection of the village taxes.

31. It shall be the duty of the village constable to collect the village taxes, fines, levies and assessments, and in case the same are not paid within one month after they are placed in his hands for collection, he may distrain and sell therefor, in like manner as a sheriff may distrain and sell for State taxes, and he shall have, in all other respects, the same power as a sheriff to enforce the payment and collection thereof. And the said constable shall have all the powers, rights and privileges within the corporate limits, or within one mile of the said village, in regard to the arrest of persons, the collection of claims, and the execution and return of process, that can be legally exercised by the constable of a township within the same, and he shall be entitled to the same compensation therefor; and he and his securities shall be liable to all the fines, penalties and forfeitures that a constable of a township is legally liable

to for any failure or dereliction in his said office, to be recovered in the same manner and in the same courts that said fines, penalties and forfeitures are now recovered against such township constable.

32. There shall be a lien on real estate within said corporation for the village taxes assessed thereon, from the commencement of the year for which they are assessed, and for all other assessments, fines and penalties assessed or imposed upon the owners thereof by the authorities of said village, from the time the same are so assessed or imposed.

33. The lien provided for in the preceding section may be enforced by the council in the same manner as the lien for taxes for county purposes is now enforced. The lien aforesaid shall have priority over all other liens, except the liens for taxes due the State and county.

34. The council may prohibit any theatrical or other performance, show or exhibition, which it may deem injurious to the morals or good order of the village.

35. The constable and treasurer shall, before entering upon the duties of their offices, execute bonds, with securities satisfactory to the council, payable to said village, in such penalty, not less than three thousand dollars, as the council may prescribe. The constable's bond shall be conditioned for the true and faithful performance of the duties of his office, as such constable, and for the collecting, accounting for, and payment of all taxes, fines, penalties, assessments, and other moneys which shall come into his hands as such constable, or which it shall be his duty to collect, at such times and

to such persons as are required by this act, or as the said council may order. The treasurer's bond shall be conditioned for the faithful performance of the duties of his office, and that he will pay over and account for all moneys that shall come into his hands as treasurer, when and as he shall be thereto required by the council.

36. The mayor shall be the chief executive officer of the village. He shall take care that the orders, by-laws, ordinances, acts and resolutions of the council are faithfully executed. He shall be *ex officio* a justice and conservator of the peace within the said village, and shall within the same possess and exercise all the powers and duties vested by law in a justice of a township, except that he shall have no jurisdiction as such in civil cases. He shall have control of the police of the village, and may appoint special police officers whenever he deems it necessary. And it shall be his duty, especially, to see that the peace and good order of said village are preserved, and that the persons and property therein are protected; and to this end he may cause the arrest and detention of all riotous and disorderly persons in said village, before issuing his warrant therefor. He shall have power to issue executions for all fines, penalties and costs impcsed by him, or he may require the immediate payment thereof; and in default of such payment, he may commit the party in default to the jail of Kanawha county, until the fine or penalty and costs shall be paid; but the term of imprisonment in such case shall not exceed thirty days. He shall, from time to time, recommend to the council such measures as he may deem needful for the welfare of the village. He shall receive a compensation for his ser-

vices, to be fixed by the council, which shall not be increased during the term for which he shall have been elected.

37. The recorder shall keep the journal of the proceedings of the council, and have charge of and preserve the records of the village. In the absence from the village or sickness of the mayor, or during any vacancy in the office of mayor, he shall perform the duties of the mayor, and be invested with all his power. He shall be a conservator of the peace within the village. He shall receive a compensation for his services, to be fixed by the council, which shall not be increased during the term for which he shall have been elected.

38. It shall be the duty of the village constable, at least once in every six months during his continuance in office, and after, if thereto required by the council, to render an account of the taxes, fines, penalties, assessments, and other claims in his hands for collection, and return a list of such as he shall have been unable to collect by reason of insolvency; to which list he shall make an affidavit that he has used due diligence to collect the same, but has been unable to do so. If the council shall be satisfied of the truth of said affidavit, it shall allow the said constable a credit for said claims. But if the council shall be of the opinion that, by the use of due diligence on the part of said constable, he could have collected the said claims, or any part of them, then he shall be charged with such as he might have collected. He shall receive for his services in the collection of taxes and assessments, a commission of five per centum on the amount thereof, to be paid by the person from whom the same is collected. But any person owing such taxes or

assessments, may pay the same to the treasurer without costs, and take his receipt therefor, at any time before the same shall be placed in the hands of the constable for collection.

39. All moneys belonging to the said village shall be paid over to the treasurer; and no money shall be paid out by him except as the same shall have been appropriated by the council; he shall pay the same upon the certificate of the recorder, or in his absence, upon the certificate of the mayor, and not otherwise.

40. If the constable shall fail to collect, account for, or pay over to the treasurer, all the taxes, fines, penalties, assessments and other moneys belonging to the said village, collected by him or placed in his hands for collection, according to the conditions of his bond and the orders of the council, it shall be lawful for the council to recover the same, by motion, in the corporate name of the village, in the circuit court of Kanawha county; or when the sum does not exceed one hundred dollars, before a justice of the township in which said village is situated, against the said constable and his sureties, or any or either of them, or his or their executors or administrators, on giving ten days' notice of such motion. And in case the treasurer shall fail to account for and pay over all or any moneys that shall come into his hands, belonging to said village, when thereto required by the council, it shall be lawful for the council to recover the same, in like manner and upon like notice, from the treasurer and his securities, or either of them, or his or their personal representatives, as is provided in relation to the constable.

41. No taxes or levies shall henceforth be assessed upon or collected from the taxable persons or property within the corporate limits of said village, for the opening or keeping in repair of roads, the building, leasing or repairing of school houses, or the purchase of lands for the same, or for the support of schools, outside of said corporate limits, and neither the board of supervisors of the county of Kanawha, nor the authorities of the township in which said village is situated, shall have or exercise any jurisdiction within said corporate limits in relation to the roads, streets, alleys, schools or school houses therein; but the same shall hereafter be and remain under the exclusive jurisdiction and control of the municipal authorities of said village, and all taxes and levies heretofore collected from the residents of the said village, for any of the purposes aforesaid, and which remain unexpended, shall be paid over to the treasurer of said village by the sheriff of said county, or other officer in whose hands the same may be.

42. The council shall provide for the employment and safe-keeping of persons who may be committed for default in payment of fines, penalties or costs under this act, and who are otherwise unable to discharge the same, by putting them to work for the benefit of the town; shall keep on hand an ample supply of necessary material for the same, and shall provide all necessary tools, implements, fixtures and facilities for the immediate employment of any and all such persons; shall fix a reasonable rate per diem as wages to be allowed every such person till such fine and costs against him are

discharged, and the recorder shall keep an account of all fines and penalties so collected and expended.

43. It shall be lawful for the council to establish and construct landings, wharves and docks on any ground which does or shall belong to said town, and to repair, alter or remove any building, wharf or dock which has been or shall be constructed, and to lay and collect a reasonable duty on vessels coming to or using the same; and it shall have power to pass and enforce such ordinances as shall be proper to keep the same in good order and repair; to preserve peace and good order at the same, and regulate the manner in which they shall be used; it shall have power to appoint as many wharf-masters for said town as may appear necessary, to prescribe their duties, fix their fees, and make all regulations in respect to such officers as they may deem proper.

44. The council shall have power to borrow such sum of money as they may deem necessary, not exceeding five thousand dollars, upon the credit of the village, at a rate of interest not exceeding seven per centum per annum, for the purchasing of lands and erecting thereon a good and sufficient school-house, with the necessary enclosures and other buildings, and appurtenances thereto, for the use of the schools of the said village. And in case the said council shall at any time fail to pay the principal or interest, or any part thereof, of the money so borrowed, according to the terms of their contract, it shall be the duty of the circuit court of the said county of Kanawha, upon the application of the person to whom the same is payable, to compel the payment thereof by the said council, by a writ

of mandamus. In case the council shall borrow money under the provisions of this section, it shall from time to time, in addition to the tax authorized by section twenty-eight, levy a tax specially appropriated to that purpose, sufficient to pay the principal and interest of the money so borrowed, as the same may become due. And in any case when a higher rate of taxes than is provided by said section is necessary for the building of school-houses, or for the support of schools in the said village, and it shall be the duty of the council to assess such additional taxes as may be necessary for such purposes.

45. It shall be the duty of the assesser to make an assessment of the persons and property within the said village subject to taxation, substantially in the manner and form in which such assessments are made by the assessor of the county, and to return the same to the council on or before the first day of July in each year; and for this purpose he shall have all the powers conferred by law upon county assessors. He shall receive a compensation for his services, to be fixed by the council, which shall not be increased during his continuance in office.

46. It shall be the duty of the superintendent of roads, streets and alleys to superintend the opening, construction and repair of the roads, streets, alleys, sidewalks, crosswalks, footways, drains and gutters within said village, and to put and keep the same in good repair, and carry into execution all the resolutions, orders and ordinances of the council in relation thereto. And for this purpose he shall have all the rights, powers and privileges, and perform all the

duties by law conferred upon and required of surveyors of roads in a township, and shall be subject to the same pains and penalties imposed by law upon such surveyors for any neglect of his duty. He shall receive a compensation for his services, to be fixed by the council, which shall not be increased during his continuance in office.

47. All the able bodied male inhabitants of the said village, over eighteen and under fifty years of age, who have resided therein for at least thirty days, shall work upon the roads, streets, alleys, sidewalks, crosswalks, footways, drains and gutters of said village, whenever thereto required by the said superintendent; provided, that every person so required may pay to the treasurer of said village the sum of one dollar and fifty cents per day for each day he is required to work, or he may furnish to the said superintendent an acceptable substitute in lieu of his personal attendance, in obedience to such requirement. Any person failing to attend at the time and place required by the superintendent; or if any attending shall fail to work as directed by said superintendent, he shall, unless he has paid the money or furnished the substitute herein provided for, be subject to a fine of two dollars for each day he shall so fail to attend or work, which may be recovered, with costs, before the mayor of the village or any justice of the township in which said village is situated, in the name of the said village. All the moneys so paid, and fines so recovered, shall be expended under the direction of said superintendent upon the roads, streets, alleys, sidewalks, crosswalks, footways, drains and gutters of said village; and the council thereof

shall have power to appropriate from the revenues of said village, such sum or sums as they may deem necessary and proper to be expended for the same purpose, for the purchase of tools and materials to be used thereon.

48. The board of education of said village shall have power to build the school house herein provided for, of such size and dimensions, and upon such plan, as they may deem best adapted to the purposes for which it is intended. Said board shall also have power to establish and maintain in said building, a high school, in which may be taught algebra, geometry, natural philosophy, chemistry, with such other branches of mathematics, or natural sciences, or literature, as the board may determine; also, the Latin, French and German languages; to prescribe the terms upon which students may be admitted into the said high school, and the tuition fees to be paid therefor; to make and enforce all necessary rules and regulations for the government of said high school, and all other schools kept in said district, and for the exclusion of children therefrom when their attendance would be dangerous to the health or detrimental to the morals or discipline of the school; to purchase all the necessary stationery and text books for the use of indigent children, and to incur all other necessary expenses to make the schools in said district efficient, and to pay the same from the school funds of said district.

47. This act shall at all times be subject to modification or repeal at the pleasure of the Legislature.

House Bill No. 98.

A BILL to incorporate West Columbia Lodge, No. 14, Independent Order of Odd Fellows, in the town of West Columbia.

Be it enacted by the Legislature of West Virginia:

1. That Charles E. Circle, Lemuel Harpold, S. H. Aumiller, C. J. Zuspian, S. T. Griffith, A. C. Mason, and Peter Darnel, and such others as are now regularly associated with them, and such as may hereafter become regularly associated with them, are hereby created a body politic and corporate, under the name and style of "West Columbia Lodge, No. 14, Independent Order of Odd Fellows," in the town of West Columbia, in Mason county, and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, and may purchase, sell and hold to them and their successors, for the charitable and benevolent purposes of said lodge, not exceeding two full lots of ground in said town of West Columbia, and not exceeding six acres of land in the county of Mason, and also such personal property and moneys necessary for the purposes aforesaid.

2. The said lodge shall be authorized to make all needful laws and regulations for the management of the property, as a majority of said lodge may prescribe.

3. This act may be altered, amended or repealed, at the pleasure of the Legislature.

House Bill No. 99.

A BILL incorporating the Slaven's Cabin and Summersville Turnpike Company.

Be it enacted by the Legislature of West Virginia:

1. It shall be lawful to open books for receiving subscriptions to an amount not exceeding ten thousand dollars, to be divided into shares of twenty dollars each, to constitute a joint capital stock, for constructing a turnpike from Valley Head in Randolph county, on the old location known as the "Slaven's Cabin and Summersville turnpike," to Sand Run in Webster county. Said books to be opened under the direction of William G. Hamrick, Adam G. Hamrick, Robert Dodrill, George Dodrill, James M. Hamrick, Isaac Hamrick, Charles McDodrill, William C. Dodrill, Currence Gregory, Benjamin Hamrick, G. W. K. Miller, Alfred B. Miller, P. L. J. Cogar and Thomas J. Cogar, or any two or more of them, at such places and at such times as a majority of the above commissioners may appoint, ten days notice thereof being previously given by posting notices of the time and place at five of the most public places in the county of Webster, and one at Valley Head in Randolph county.

2. When two thousand dollars of the capital stock shall have been subscribed, then the subscribers their executors, administra-

tors and assigns and any who may associate with them for that purpose, shall be incorporated by the name of "The Slaven's Cabin and Summersville Turnpike Company," subject to all the provisions and entitled to all the benefits prescribed by the Code of Virginia, for the incorporation and regulation of turnpike companies, except so far as the provisions of this act are or may be inconsistent therewith.

3. The said commissioners, or a majority of them, who shall at all times constitute a quorum for the transaction of business, may receive subscriptions in money or labor to any amount necessary for the construction of said road, and may cause the same to be expended thereon under their own supervision, or the supervision of such other person or persons as they may appoint for that purpose.

4. Every person who shall subscribe for the construction of said road, payable in labor, shall state the number of days he proposes to work thereon, and in case he fails or refuses to perform such labor, he shall forfeit the sum of one dollar and fifty cents for each and every day of such failure, which may be recovered, with costs, in the name of said commissionioners, before any court of justice having jurisdiction in the case. And the said commissioners may in like manner sue and recover any and all subscriptions made for the construction of said road, payable in money.

5. The said commissioners may, in their discretion, let out the said road, or any part thereof, to contract, and take from the contractors bonds, with good security, payable to themselves, for the faithful performance of their contracts. In case of the failure of any such contractor to comply with the conditions of his bond, the said commissioners may maintain an action thereon for the damages occasioned by such failure.

6. The voters of any township through which any part of said road passes may, at their annual township meeting, or at a special meeting called for that purpose, if the votes in favor of the proposition are a majority of the whole vote cast, levy a tax on the property of their township subject to taxation, of not exceeding in any one year twenty cents on every one hundred dollars of the taxable value of such property, to be applied to the construction of said road in such township.

7. If, from any cause, any of the commissioners herein named shall fail or refuse to act, the remaining commissioner or commissioners shall from time to time, appoint others in their stead who shall have all the powers and perform all the duties of the commissioners appointed by this act.

8. Said company hereby incorporated may elect a president and treasurer in their own body, and may also elect a secretary, who shall become one of the corporate body, and the president,

treasurer and secretary shall constitute a board of directors for said company; they shall take the several oaths of office required by the laws of this State; and they may make any by-laws and regulations as may be necessary for the government of the said corporation.

9. When the said road is opened it shall be under the supervision of said corporation, and they may construct gates on said road and receive tolls thereon; said tolls so collected shall be used in paying for and keeping in repair said road; provided, that no tolls shall be charged until the road be opened eight feet wide from Valley Head to Elk river. And when the road is completed sixteen feet wide of solid road, and the same is in good repair, then any money that is or may thereafter be in their treasury, they may divide the same as they see proper among themselves, according to their stock, and shall have all the income of said road so long as they keep the same in good repair.

House Bill No. 100.

A BILL for the relief of William Koontz.

Be it enacted by the Legislature of West Virginia:

1. The Auditor is hereby directed to issue his warrant upon the Treasury for four dollars in favor of William Koontz, it being the sum paid as state taxes on an erroneous valuation of one thousand dollars, on twenty acres and ninety-six poles of land in Marshall county.

2. And the Board of Supervisors of Marshall county are empowered to refund to said Koontz the taxes paid by him for the year 1866, on an erroneous assessment of one thousand dollars, as specified in section one of this act.

House Bill No. 101.

A BILL for the relief of Alexander Riggs.

Be it enacted by the Legislature of West Virginia:

The Auditor is hereby directed to issue his warrant upon the Treasury for fifty dollars, in favor of Alexander Riggs, late contractor on the Parkersburg and Staunton Turnpike, it being the sum due for work done under the superintendence of J. B. Reger.

House Bill No. 102.

A BILL to provide for the care and maintenance of the colored lunatics.

Be it enacted by the Legislature of West Virginia:

That the directors of the Lunatic Asylum at Weston, known under the corporate name of "The West Virginia Hospital for the Insane," shall be and they are hereby authorized to contract for the extension of the said Asylum for the maintenance and care of colored lunatics.

House Bill No. 103.

A BILL providing for the collection of back taxes in the counties of Braxton and Webster.

Be it enacted by the Legislature of West Virginia:

1. That John Morrison, late sheriff of Braxton county and his late deputies in said office may enforce the payment of the uncollected taxes and levies assessed and made in the said county of Braxton for the years 1859 and 1860, now in their hands for collection, by distress and sale of property in the manner now provided by law; such distress and sale may be made in that part of Webster county which was taken from the county of Braxton, by the present sheriff of Webster county and his deputies, for the benefit of the said John Morrison, late sheriff of Braxton county.

House Bill No. 104.

A BILL to amend an act entitled "An Act to incorporate the town of Brandonville, in the county of Preston," passed February 24, 1858.

Be it enacted by the Legislature of West Virginia:

1. That section two of an act entitled an act to incorporate the town of Brandonville, in the county of Preston, is hereby amended and re-enacted so as to read as follows:

2. The qualified voters of said town shall, on the third Saturday of March, in each year, elect a mayor and six trustees.

2. That the said act be further amended by adding thereto the following, as sections four and five:

4. The mayor shall be the chief executive officer of the town; he shall take care that the orders, by-laws, ordinances, acts and resolutions of the council are faithfully executed; he shall be *ex officio* a justice and conservator of the peace within the town, and shall, within the same, possess and exercise all the powers and duties vested by law in a justice of a township, except that he shall have no jurisdiction as such in civil cases; he shall have control of the police of the town, and may appoint special police officers whenever he deems it necessary; and it shall be his duty especially to see that the peace and good order of the town are preserved,

and that persons and property therein are protected, and to this end he may cause the arrest and detention of all riotous and disorderly persons in the town before issuing his warrant therefor; he shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment he may commit the party in default to the jail of Preston county until the fine or penalty and costs shall be paid; but the term of imprisonment in such case shall not exceed thirty days.

5. Whenever anything for which a State license is required is to be done in said town, the council may require a town license therefor, and may impose a tax thereon for the use of said town. But no license to sell strong or spirituous liquors, wine, beer, ale, porter or drinks of like nature within said town, shall be granted by the board of supervisors of the county of Preston, unless the person applying therefor shall produce to said board of supervisors the certificate of the council of said town of its consent to the granting of such license. The council may require from a person so licensed a bond, with sureties, payable to said town in such penalty and with such conditions as it may think proper, and may revoke such license at any time, if the conditions of said bond be broken.

House Bill No. 105.

A BILL amending and re-enacting section one of chapter fifty-three, of the Code of Virginia.

Be it enacted by the Legislature of West Virginia:

That section one of chapter fifty-four, of the Code of Virginia is amended and re-enacted so as to read as follows:

1. That incorporated towns that support their own poor and keep in repair their own streets and alleys, shall be exempt from any levy made to support the poor of the county outside of the limits of said corporations; and shall not be subject to levies for road purposes, or compelled to work any county or township roads outside of the limits of any town so incorporated.

House Bill No. 106.

A BILL authorizing Jno. Fisher and H. C. Sisson's heirs to retain and use a mill dam across Pocatalico river.

Be it enacted by the Legislature of West Virginia:

That John Fisher and the heirs of Henry C. Sisson, deceased, shall be and are hereby authorized to build, or if already built to retain and use a mill dam of the height of five feet and six inches, across Pocatalico river, at the town of Sissonville, in the county of Kanawha; *provided*, that the said Fisher and Sisson's heirs shall build, (within nine months from the passage of this act,) to said dam a slope thirty feet wide and forty feet long so as not to obstruct the navigation of said river.

House Bill No. 107.

A BILL for the relief of John Haymaker.

Be it enacted by the Legislature of West Virginia :

That the Board of Supervisors of Calhoun County are authori-
2 zed and empowered to allow John Haymaker the amount of money
3 shown by him to have been expended in the arrest of a certain
4 horse-thief.

House Bill No. 108.

A BILL providing for the insurance of the State Normal Schools and Agricultural College.

Be it enacted by the Legislature of West Virginia :

The Boards of Regents of the State Normal Schools and the Board of Visitors of the State Agricultural College, are hereby authorized to insure said buildings from year to year, to an amount not exceeding two thirds of the value thereof, and at a rate not exceeding three fourths of one per cent, they shall issue their warrant upon the Auditor for the amount of said insurance, who shall pay the same out of any money in the treasury not otherwise appropriated, provided that in case either of said buidings have been insured, they shall not be insured under the provisions of this act, until the expiration of the policy.

House Bill No. 109.

A BILL in relation to the assessment of lands for the purpose of taxation.

Be it enacted by the Legislature of West Virginia:

1. It shall be the duty of every Assessor in this State in making out his land books for the year 1868, to correct, as far as possible, all mistakes in the land books of his county or district for the preceding year, and to charge all the lands and lots therein to the person or persons holding the legal title thereto at the time of making out said books, as the same may appear by the records in the office of the Recorder of his county. It shall also be his duty to re-assess all such real estate in his county or district as may, in his opinion, have been assessed either too high or too low by the re-assessment thereof made in the year, 1866, and to make such other changes in said assessment as may be necessary to conform the same to the requirements of the next section.

2. In making the re-assessment required by the preceding section, the average value per acre of the land in any county shall not be less than the sum hereinafter specified as to such county, to-wit: In Barbour county, $6 50; Berkeley, $19; Boone, $1 50; Braxton, $1 90; Brooke, $30; Cabell, $4; Calhoun, $2; Clay,

$1; Doddridge, $4 50; Fayette, $1 60; Gilmer, $2 50; Grant, $4; Greenbrier, $4 50; Hampshire, $4 80; Hancock, $23; Hardy, $5 20; Harrison, $15; Jackson, $4; Jefferson, $37; Kanawha, $4 50; Lewis, $7; Logan, $1 30; Lincoln, $2 10. Marion, $12 37; Marshall, $15; Mason, $11; Mercer, $2; Mineral, $6 50; Monongalia, $11; Monroe, $5 90; Morgan, $4 20; McDowell, 50 cents; Nicholas, $1 70; Ohio, $33 00; Pendleton, $2 50; Plesants, $6 50; Pocahontas, $1 60; Preston, $4 50; Putnam, $4 50; Raleigh, $1 25; Randolph, 90 cents; Ritchie, $4 50; Roane, $2 40; Taylor, $10 00; Tucker, $1 30; Tyler, $5 00; Upshur, $5 50; Wayne, $3 20; Webster, 70 cents; Wetzel, $4 50; Wirt, $3 50; Wood, $10 00; Wyoming, 50 cents.

3. Any person who may be of opinion that the assessment of his own lands, or lots, or those of any other person as charged on the land books made out under the provisions of this act, is above or below their true value, or erroneous as to quantity, may at any time before the first day of April, 1869, apply by himself or his agent to the board of supervisors of the county in which such lands or lots are charged as aforesaid, to have the assessment corrected, Notice in writing of such application shall be given to the prosecuting attorney of the county, and, if such application be not made by the owner of such lands or lots, or his agent, to such owner or

one of several owners, or his agent, at least ten days before the application is made, which notice may be served in the same manner in which other notices may by law be served. If such owner or his agent cannot be found within the county, the notice may be served by publication in some convenient newspaper, once in each week for four successive weeks, and being posted on the door of the court house of the county for a like period, and the notice when so served shall be equivalent to personal service. The expense of the publication and proof of such notice when the same is directed by the board of supervisors shall be paid out of the county levy, in all other cases it shall be paid by the party at whose instance such publication is made. It shall be the duty of the prosecuting attorney, in all such cases to attend to the interest of the State and county. If upon hearing the evidence adduced the board of supervisors shall be satisfied that the assessment complained of is erroneous as to the value of the lands or lots assessed, or as to the quantity thereof, they shall correct the same by placing such lands or lots on the land books at their true value or quantity, or both, as the case may be.

4. The board of supervisors of each county shall have the sole jurisdiction to hear applications, to correct any assessment of real or personal estate in their county, and to try and determine the same, and their decision in all such cases shall be final.

5. Provided, that no board of supervisors in correcting the assessment of lands in their county shall so lessen the value of such lands as to reduce the average value per acre of all the lands in the county, below the sum specified in this act as to such county.

6. A copy of all orders made on such applications correcting any assessments shall be certified by the clerk of the board of supervisors to the Auditor, and a like copy to the assessor of the county or district in which the property assessed is situated. If the tax assessed on such property has been placed in the hands of the sheriff for collection, a copy of such order shall also be certified to such sheriff.

7. Every such assessor shall be allowed such reasonable sum, not exceeding two dollars per day, for the time actually and necessarily employed by him in making the re-assessments required by this act, as the board of supervisors of his county may determine to be paid out of the State Treasury. Every account filed under the provisions of this section shall be verified by the affidavit of the assessor that the number of days therein specified were actually and necessarily employed by him in making the re-assessment of the lands in his county or district required by this act.

House Bill No. 110.

A BILL to legalize the execution, acknowledgment and recordation of a certain deed in Pocahontas county.

Be it enacted by the Legislature of West Virginia:

The execution, acknowledgement and recordation of a deed executed by Michael B. Gillilan and Francis I., his wife, to Isaac McNeil of Pocahontas county, bearing date the 4th day of May, 1864, and admitted to record on the same day in the clerk's office of the late county court of Pocahontas county, are hereby legalized and declared to be valid.

House Bill No. 111.

A BILL empowering Circuit Courts to reinstate causes dismissed from the Court Docket and to set aside non-suits.

Be it enacted by the Legislature of West Virginia:

1. Any circuit court may on motion, reinstate on the trial docket of the court, any cause dismissed, and set aside any non-suit that may be entered by reason of non appearance of the plaintiff, within three terms after the order of dismissal may have been made, or order of non-suit entered.

2. And all causes in which orders of dismissal have been made, or orders of non-suit entered by the courts, and which orders have been set aside and causes reinstated, the same shall remain upon the docket and be proceeded in the same as if the said orders had never been made, provided, that no such cause shall be brought to trial until the defendant therein shall have had at least thirty days notice in writing of such re-instatement.

House Bill No. 112.

A BILL amending section 13, of chapter 122, of the acts of 1863.

Be it enacted by the Legislature of West Virginia:

That section thirteen of chapter one hundred and twenty-two, of the acts of 1863, is hereby amended and re-enacted so as to read as follows:

A justice of one township may issue a summons to the defendant to appear before the justice of another township in the same county, and when the suit is cognizable by the justice of any township, he may issue summons to any constable within the State commanding the defendant to appear before him.

House Bill No. 113.

A BILL to amend and re-enact section 6, of chapter 60, of the acts of 1866, entitled "An Act to consolidate the towns of Moundsville and Elizabethtown."

Be it enacted by the Legislature of West Virginia:

That section 6 of chapter 60 of the acts of 1866, entitled "An Act to consolidate the towns of Moundsville and Elizabethtown," be amended so as to read as follows:

6. All lands lying and being within the corporate limits of said town shall be taxed in proportion to its value per acre for road purposes, whether laid off in town lots or otherwise.

House Bill No. 114.

A BILL incorporating Caledonia Lodge, No. 4, of the Independent Order of Odd Fellows in the town of Shepherdstown.

Be it enacted by the Legislature of West Virginia:

1. That John D. Staley, Daniel S. Rentch, John Kelilinger John T. Hill and Abraham Harris, and such others as are now regularly associated with them, and such as may hereafter become regularly associated with them, are hereby created a body politic and corporate, under the name and style of "Caledonia Lodge, No. 4, of the Independent Order of Odd Fellows," in the town of Shepherdstown, in Jefferson county; and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, and may purchase, sell and hold to them and their successors, for the charitable and benevolent purposes of said lodge, not exceeding two full lots of ground in said town of Shepherdstown, and not exceeding six acres of land in the county of Jefferson; and also such personal property and moneys necessary for the purposes aforesaid.

2. The said lodge shall be authorized to make all needful laws and regulations for the management of their property as a majority of said lodge may prescribe.

3. This act may be altered, amended or repealed at the pleasure of the Legislature.

House Bill No. 115.

A BILL incorporating "Wheeling Lodge No. 9, of the Independent Order of Odd Fellows," in the city of Wheeling.

Be it enacted by the Legislature of West Virginia:

1. That Samuel M. Darragh, James Forsyth, James Hollingsworth, N. H. Beck and Wm. Ellingham, and such others as are now regularly associated with them, and such as may hereafter become regularly associated with them, are hereby created a body politic and corporate, under the name and style of "Wheeling Lodge No. 9, of the Independent Order of Odd Fellows," in the city of Wheeling, West Virginia; and by that name shall have perpetual succession and a common seal, may sue and be sued, plead and be impleaded, and may purchase, sell and hold to them and their successors, for the charitable and benevolent purposes of said Lodge, not exceeding two full lots of ground in said city of Wheeling, and not exceeding six acres of land, in the county of Ohio; and also such personal property and moneys necessary for the purposes aforesaid.

2. The said Lodge shall be authorized to make all needful laws and regulations for the management of their property, as a majority of said Lodge may prescribe.

3. This act may be altered, amended or repealed at the pleasure of the Legislature.

House Bill No. 116.

A BILL to authorize a wharf to be erected on the south side of the Little Kanawha River.

Be it enacted by the Legislature of West Virginia:

That Thomas and Edmund P. Chancellor have the right granted them to erect a wharf on their land pointing on the Little Kanawha river opposite the city of Parkersburg, and that they be permitted to charge and receive the same rate of wharfage and have the same privilege as the city of Parkersburg.

House Bill No. 117.

A BILL for the Relief of George D. Mollohan.

Be it enacted by the Legislature of West Virginia:

1. That the Auditor of Public Accounts is hereby directed to issue his warrant upon the Treasurer, for thirty dollars, in favor of George D. Mollohan, for State taxes erroneously assessed against said Mollohan for the years 1865, 1866 and 1867.

2. And the Board of Supervisors of Braxton county are empowered to refund to said Mollohan for the years above named, any and all county taxes erroneously assessed and paid.

House Bill No. 118.

A BILL for the Relief of the Heirs of Nathaniel Tomlinson.

Be it enacted by the Legislature of West Virginia:

That the Board of Supervisors of Marshall county be and are hereby empowered to release or refund to the heirs of Nathaniel Tomlinson any and all taxes erroneously assessed or paid for and since the year 1863.

House Bill No. 119.

A BILL making an appropriation to the West Virginia Hospital for the Insane.

Be it enacted by the Legislature of West Virginia:

The sum of fifty thousand dollars is hereby appropriated to be applied to the payment of the expenses for continuing and completing the work on the Insane Hospital at Weston, for the year 1868. And the same shall be paid by the Auditor on the draft of the Treasurer of said Hospital, endorsed by the president of the board of directors. Anything in the eighty-fifth chapter of the Code of Virginia, second edition, notwithstanding.

House Bill No. 120.

A BILL to authorize the Auditor to allow certain credits to H. H. Dils, late sheriff of Wood county.

Be it enacted by the Legislature of West Virginia:

The Auditor is hereby directed to allow H. H. Dils, late sheriff of Wood county, a credit for the amount of all licenses charged against him for the years 1865 and 1866, as will appear on settlement to have been improperly reported by the assessor of said county.

House Bill No. 121.

A BILL concerning the use of blank lists by Assessors.

Be it enacted by the Legislature of West Virginia:

That so much of chapter one hundred and twenty-nine of the acts of 1867, as requires the use of blank lists by the assessors in the assessment of persons and property, to a greater extent than was required by chapter one hundred and eighteen of the acts of 1863, is hereby repealed.

House Bill No. 122.

A BILL amending the law concerning Insurance Companies.

Be it enacted by the Legislature of West Virginia:

1. That it shall be unlawful for any officer, agent or agents of any Insurance Company incorporated by the laws of this State, or any other State, directly or indirectly to take risks, or issue any policies of insurance within this State, without first procuring a certificate from the Auditor as hereinafter directed. Before obtaining such certificate, such company, its officers, agent or agents, shall furnish said Auditor with a statement, under oath of the president or secretary of the company for which he or they may act, which statement shall show: First, The name and locality of the company. Second, The amount of its capital stock. Third, The amount of its capital stock paid up. Fourth, The assets of the compamy, including, (1st,) the amount of cash on hand and in the hands of agents or other persons; (2nd,) the real estate unincumbered; (3rd,) the bonds owned by the company, and how they are secured, with the rate of interest thereon; (4th,) debts to the company, secured by mortgage or otherwise; (5th,) debts for premiums; (6th,) all other securities. Fifth, The amount of liabilities due or owing to banks or other creditors by the company. Sixth, Losses adjusted and due. Seventh, Losses adjusted and not due. Eighth, Losses unadjusted. Ninth, Losses in suspense, waiting for further proof. Tenth, All

other claims against the company. Eleventh, The greatest amount insured in any one risk; which statement shall be filed in the office of said Auditor. All companies organized and incorporated under the laws of any other than this State, shall file with such statement a written instrument, under the seal of such company, signed by the president and secretary, requiring its agents to acknowledge service of process for and in behalf of such company—consenting that service of process upon the regularly authorized agents shall be taken and held to be as valid as if served upon the company, under the laws of this State, or any other State, and waiving all claim of error by reason of such service. And no insurance company, or agent or agents of any insurance company doing business under the laws of this or any other State, shall transact any business of insurance in this State, unless such company is possessed of at least one hundred thousand dollars of actual capital, invested in the stocks or bonds of some one or more of the States of this Union whose bonds are at par, or of the United States, at the current market value thereof at the date of such statement, or in bonds or mortgages with real estate, worth double the amount for which the same is mortgaged, and free from any prior incumbrance; and it is hereby provided, that at least thirty thousand dollars in amount of said actual capital shall be in cash or its equivalent.

2. Upon the filing of the aforesaid statements and papers with the Auditor, and furnishing him with such satisfactory evidence of such investment as aforesaid, it shall be the duty of said Auditor to issue a certificate thereof, with authority to such company, upon comply-

ing with the provisions aforesaid, its agent or agents, to transact the business of insurance; and said statements, instruments and evidence shall be renewed annually in the month of January of each year; and the Auditor of State, on being satisfied that the capital, securities and investment remain secure as at first, shall furnish a renewal of the certificate as aforesaid, and the company, agent or agents obtaining such certificate, shall cause the same to be published in some newspaper of general circulation published in the State, and cause a copy of such publication to be filed in the office of the clerk of the circuit court in each county where said company, its agent or agents does insurance business.

3. It shall be unlawful for any agent or agents of any insurance company, incorporated by any government foreign to the United States, to transact any business of insurance in this State, without procuring a like certificate of authority from the Auditor; such agent or agents having first filed in the office of said Auditor, a properly authenticated statement, containing the matters required to be specified according to the provisions of the first and second sections of this act, and furnishing satisfactory evidence to the Auditor that such company has invested in the stocks or bonds of some one or more of the States of this Union, whose bonds are at par, or of the United States, the sum of one hundred thousand dollars, estimated at the current market value thereof at the date of such statement, and that such stocks or bonds are held within the United States by a citizen or citizens thereof, as the agent or agents, trustee or trustees of such company, and are not pledged or otherwise

encumbered, but are held and remain for the protection and benefit of the policy-holders of such company, depositing at least twenty-five thousand dollars of such bonds, or in cash, with the Treasurer; and the said agent or agents of such company, filing said statement and furnishing evidence as aforesaid, and making such deposit, shall be entitled to a certificate in like manner, as is provided for in the second section of this act.

4. The Auditor of State shall be entitled to ten dollars in each case for the examination of statements and investigation of the evidences of investment, and five dollars for each certificate of authority issued under the provisions of this act.

5. The written or printed copies of all papers required by this act to be deposited with the Auditor, certified under the hand of such Auditor to be true and correct copies of such papers, shall be received as evidence in all courts and places, in the same manner, and have the same force and effect as the original would have if produced.

6. Any person or persons violating the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, be fined in any sum not exceeding one thousand dollars, or imprisonment in the county jail not more than thirty days, or both, at the discretion of the court.

7. Every insurance company incorporated in this State, and every person acting as agent in this State, of any insurance company incorporated under the laws of any other State or government, shall semi-annually make returns to the Auditor, as provided in the next section.

8. The said returns shall in all cases be made within twenty-days after the first days of February and August, in each year. Said returns shall show the amount of premiums on all insurances made or renewed by or on behalf of such company, within this State, during the six months immediately preceding the said first day of February or August, including as well the premiums uncollected as those which have been paid. If such returns be made by or on behalf of a company incorporated in this State, they shall be verified by the affidavits of its president, secretary, or principal officer; and if made on behalf of any other company, by the affidavit of the person acting as its principal agent in this State.

9. At the same time the return is made to the Auditor, as aforesaid, the company or person making such return shall pay into the treasury of the State a tax of three per cent on the amount so returned; and such tax, when paid, shall be in full of all taxes to be paid by such company.

10. Every company or person hereby required to make return or payment as aforesaid, who shall fail to do so, shall forfeit not less than one thousand nor more than five thousand dollars for every such offense, and it shall be the duty of the Auditor forthwith to cause suit to be instituted, in the name of this State, for the recovery thereof.

11. The act passed February 27, 1867, entitled "An Act relating to insurance companies not incorporated by this State," is hereby repealed.

House Bill No. 124.

A BILL giving to Circuit Courts control over the expenditures of their Clerk's offices.

Be it enacted by the Legislature of West Virginia:

1. That the circuit courts for each county shall have control over the expenditures of its clerk's office, shall be empowered to issue all orders for stationery and the necessary office furniture, and shall have power to make such other orders as in its discretion shall seem proper for the better management of its said clerk's office, and the preservation of the records therein. And all such orders for the payment of money, shall be certified to and paid by the board of supervisors.

House Bill No. 125.

A BILL to amend chapter 29 of the acts of 1864.

Be it enacted by the Legislature of West Virginia:

That the provisions of the act passed March 1, 1864, entitled "An act to exempt a certain amount of property from execution or other process," shall not extend to any process issued upon a judgment against any person for failing to perform labor on any public road, as required by law; but all such process may be levied and the money therein specified collected in the same manner as if said act had not been passed.

House Bill No. 126.

A BILL regulating the distribution of the school funds of Hancock county.

Be it enacted by the Legislature of West Virginia:

The state school funds for free school purposes of Hancock county shall be apportioned as is now provided by law, and further that all moneys, state school funds and township levies, shall then be equally divided among the several school districts of each township in said county, provided, that a majority of the citizens of said county shal agree to the mode of distribution provided for in this act.

House Bill No. 127.

A BILL changing the boundary lines of the county of Lincoln.

Be it enacted by the Legislature of West Virginia:

1. The boundary lines of the county of Lincoln, in this State, shall hereafter be as follows: Beginning at the old ford of Mud river, about two hundred yards below the Trace fork of said river; thence with the dividing ridge between Trace creek and Little Buffalo creek to the dividing ridge between Trace creek, Bear creek and Tyler's creek; thence to and along the ridge above Tyler's creek to Guyandotte river at the mouth of said creek; thence up said river to the mouth of Madison creek; thence south forty-five degrees west to the Wayne county line; thence with said line to a point opposite to, and at right angles with, the mouth of Bowens' creek in the county of Wayne; thence a straight line to the Beech fork of Twelve Pole river at the mouth of said Bowens' creek; thence up said Beech fork to the present line between the counties of Wayne and Lincoln above the mouth of Raccoon creek, and with said line to the Logan county line; thence with the Logan county line to the head of Little Hart's creek; thence down the ridge above said creek to Guyandotte river at the mouth of said creek; thence crossing said river and up the hill to the top of the main dividing ridge between the waters of Big Ugly creek and the waters of Guyandotte river above said creek; thence with the said dividing ridge to the Boone county line; thence with said line to the present line of the county of Lincoln, and with the same as set out in the act creating the said county of Lincoln to the Head of Horse creek; thence to the top of the main dividing ridge between the waters of the right and left hand forks of Horse creek, and down said ridge to the forks of said creek at Washington Hill's farm, so as to include said farm in the county of Lincoln; thence down Horse creek to

Little Coal river, and down said river to the Kanawha county line; thence with said line to the top of the dividing ridge between the waters of Coal and Mud rivers, and with said ridge to the original line of Putnam county, as it existed prior to the creation of Lincoln county; thence with the said original line of Putnam county, by way of the Trace fork of Mud river, to the point where said line first reaches the waters of Charley's creek; thence down said creek to Mud river, and up said river to the beginning; and all the territory embraced within the boundary line aforesaid shall hereafter be embraced within and constitute the said county of Lincoln.

2. All that part of the county of Putnam included within the boundary lines of the county of Lincoln, by the act creating said county, is hereby restored to, and shall hereafter form a part of the said county of Putnam. And all taxes and levies now in the hands of any officer in the county of Lincoln for collection, assessed upon persons and property in said portion of the county of Putnam, shall be delivered by such officer to the proper officer of the county of Putnam, whose duty it shall be to collect and account for the same, in the same manner and to the same extent as if said taxes and levies had been assessed and made in the said county of Putnam. The officer receiving such taxes and levies for collection, shall execute to the officer from whom he receives them, his receipt therefor, signed in his official character, and such receipt shall entitle the officer holding it to a credit upon his settlement for such taxes and levies. In case any county or township levies have been collected in the said portion of Putnam county, by any officer of Lincoln county, it shall be the duty of the board of supervisors of Lincoln county to cause the same to be paid over to the county treasurer of Putnam county.

House Bill No. 128.

A BILL to alter part of the division line between the counties of Tyler and Wetzel.

Be it enacted by the Legislature of West Virginia:

1. The division line between the counties of Tyler and Wetzel is hereby so altered as to include within and make part of the county of Tyler the farms of Nimrod Beohard and Elisha Stoneking, now partly in the county of Wetzel.

2. The alteration herein provided for shall not be of force until the surveyor of the county of Tyler shall run and mark the new line or lines, and make three fair plats thereof, which he shall duly certify and forward, one to the Secretary of the State, another to the recorder of the county of Wetzel, and the third to the recorder of the county of Tyler, who shall file and carefully preserve the same in their respective offices.

3. The account of the said surveyor, for his fees and expenses incurred under the provisions of this act, shall be audited by the board of supervisors, and paid out of the treasury of the county of Tyler.

House Bill No. 129.

A BILL to amend the charter of the Little Kanawha Navigation Company.

Be it enacted by the Legislature of West Virginia:

1. That the second section of an act to amend and re-enact an act entitled "An Act to incorporate the Little Kanawha Navigation Company," passed February 28th, 1866, be so amended as to read as follows: The capital stock of said company shall consist of forty thousand shares of twenty-five dollars each. Said company having been organized under the foregoing act, the same is hereby continued, and shall be governed by the provisions of the fifty-sixth, fifty-seventh and sixty-first chapters of the Code of Virginia, second edition, so far as the same are applicable and not inconsistent with its charter. The council of the city of Parkersburg and the boards of supervisors of Wood, Wirt, Ritchie, Calhoun, Gilmer and Braxton counties, shall have power to subscribe to the capital stock of said company from time to time, to an amount not exceeding twenty thousand dollars each, and may issue their bonds to said company, upon such terms and conditions as may be agreed upon, in payment of any subscription so made. And if the council of said city, or the supervisors of any of said counties, shall decline to make such subscription, or shall subscribe to an amount less than twenty thousand dollars, it shall be lawful for the council of said city, or the super-

visors of such county, to loan to said navigation company, from time to time, the bonds of said city or of such county, to such an amount as, including any subscriptions of said city or such county, will not exceed twenty thousand dollars each, in such sums and upon such terms and conditions as may be agreed upon; provided, that the sums so subscribed or loaned, shall be expended in the improvement of the river in the county subscribing or loaning the same, and that said city and such counties shall have a lien on the works of said company to secure the payment of the interest and principal of any bonds loaned to said company. It shall be the duty of the said company, out of the proceeds of the tolls to be collected as hereinafter provided, after deducting its current expenses, to pay the interest on any bonds issued for such loan or subscription, to the exclusion of all other liabilities of said company which may be contracted subsequent to such subscription or loan; and if such tolls, after paying out of the same such current expenses, shall at any time prove insufficient to pay the interest on said bonds, it shall be the duty of said city or county, which may have issued such bonds, to provide for such deficiency; and the circuit court shall have power by mandamus to enforce the provisions of this section.

2. The third section of the above recited act is hereby so amended as that said company shall have power to charge and collect tolls on steamboats, barges and other floats, and on all commodities, according to the distance which the same may be transported on such parts of said rivers, or either of them, as shall have been slack-watered by the construction of one or more locks and dams, inclu-

ding that part of the Little Kanawha river between lock and dam number one, as the same are now located, and the mouth of said river, at not exceeding the following rates, to wit:

On crude and refined oil, whether transported in bulk, in barrels or other packages, per barrel of forty gallons, per mile, five mills.

On empty oil barrels, per barrel, per mile, one and one-half mills.

On malt and spirituous liquors, per barrel of forty gallons, per mile, two and one-half cents.

On flour, per barrel, per mile, seven mills.

On timber and logs, per one hundred cubic feet, per mile, two cents.

On boards, plank, scantling and lumber of all kinds, when transported in rafts, per one thousand feet, reduced to board or inch measure, per mile, two cents; and on the same when transported in boats or barges, per mile, one and one-half cents.

On staves and heading for flour, salt, lime, grain or fruit barrels, and on clapboards, shingles and laths, per thousand, per mile, one cent.

On staves and heading for oil, pork or liquor barrels, and on hoop poles, per thousand, per mile, two cents.

On staves and heading for casks and hogsheads, per thousand, per mile, four cents.

On both staves and heading, per cord, per mile, two cents.

On wood and tan bark, per cord, per mile, one cent.

On coal and coke, per thousand pounds, per mile, one cent.

On salt, lime, hydraulic cement, grain, wool, furs, peltry, skins,

furniture, groceries, provisions, merchandize, agricultural products, and all articles not herein enumerated, per hundred pounds, per mile, two mills.

On all steamboats, for each and every lock to be passed through, two dollars and fifty cents; and

On all barges and other floats, for each and every lock to be passed through, one dollar and fifty cents.

Provided, That in all cases legal toll shall be paid on the cargoes of all such boats, barges and other floats, exclusive of such toll for lockage, and that no toll shall be collected for the lockage of any raft when toll shall have been paid on the materials composing such raft to an amount which shall equal or exceed one and one-half dollars for each lock to be passed through.

3. Said navigation company may become carriers on their said works, and may, out of their capital stock, provide suitable boats and transportation for said business, and may lease, sell or use any surplus water or water power afforded by the improvements herein provided for, beyond the amount required for navigation. At all general and special meetings and elections, each stockholder may, in person or by proxy, cast one vote for every share of stock owned by him. The council of the city of Parkersburg, and the board of supervisors of any of said counties which may have subscribed to the capital stock of said company, may each appoint a proxy to cast the vote such city or county may be entitled to at such meeting or election.

4. Said company shall have power to borrow money, not exceeding

in the aggregate the amount of its capital stock, at such rate of interest, and on such terms as it shall deem proper, to issue and dispose of its bonds or other securities for the same in such manner as it shall deem best, and to pledge its works and property, by mortgage or deed of trust, for the payment thereof and of the interest to accrue thereon.

5. Said company may enter and condemn lands and water power for the purpose of improving the navigation of the said Little Kanawha river, including the west fork of said river and of Hughes' river, by any mode of improvement heretofore authorized by its charter, so far up the said rivers, or either of them, as said company shall deem proper, or its resources permit, and also for the purpose of constructing and maintaining reservoirs on said rivers, or either of them or on any of their tributaries, under the provisions of the fifty-sixth chapter of the Code of Virginia, and said company shall have the benefit of any and every act declaring said rivers navigable highways.

6. Manifests, under oath when required, of the cargoes of all boats and floats of every description, which may navigate said rivers, or either of them, shall be furnished to the superintendents or collectors of tolls who may be appointed by said company, designating such boat or float by name, or in such manner as said company may by regulation require, the name of its master, the amount of the several kinds of commodities constituting its cargo, the names of the several shippers and consignees of the same, and of the several places at which the same shall have been received and to

be discharged; legal toll shall be demanded and paid accordingly, and no boat or other float shall be entitled to a clearance or to lockage, till such toll shall have been paid. It shall be lawful for collectors of tolls, or other authorized agents of said company, to board and enter all boats or other floats on said rivers, for the purpose of verifying such manifest, or of determining the amount of the several commodities composing such cargo, and to demand and receive legal toll on such boat or other float and its cargo; and in case of failure to pay such toll when thus demanded, such boat or other float and its cargo shall be liable therefor, and may be proceeded against by attachment as in other cases of attachment for debt. Any person or persons on board of such boat or float, and having control of the same, who shall neglect or refuse to come to when required by such collector or agent, shall forfeit and pay twenty dollars to the use of said company, to be recovered before any justice of the peace; and all persons resisting such collector or agent in the execution of his lawful duties, shall be deemed guilty of a misdemeanor, and prosecuted accordingly. All persons who shall ship off, or authorize to be shipped off, any article subject to the payment of toll, without having first entered the same on such manifest, and paid toll thereon as herein provided, shall forfeit and pay twice the amount of such toll, to be recovered for the use of said company, before any justice of the peace or court having jurisdiction of the same, and said company may sue out an attachment before any justice of the peace, against any boat or other float and its cargo, upon either of said rivers, for tolls or forfeitures due and unpaid by such

boats or other floats, their owners, masters or shippers, which attachment shall be prosecuted as in other cases of attachment for debt.

7. The superintendents, collectors of tolls, lock tenders, and other authorized agents, who may be appointed by said company, are hereby authorized to prosecute, in the name of said company, in usual forms, for any and all penalties, forfeitures or punishments authorized and sanctioned by this act.

8. No person, except the officers or employees of said company, shall be permitted to open any large gate or valve-gate of any lock without the permission of the authorized lock tender, and every person violating this section shall be deemed guilty of a misdemeanor and prosecuted accordingly.

9. Said company may make such regulations, not inconsistent with its charter and the laws of this State, as it shall deem proper for the purpose of facilitating navigation, protecting its property and revenues, and carrying into effect all the privileges and franchises herein or heretofore granted, and such regulations shall be complied with by all persons navigating their said improvements.

10. Nothing in this act shall be construed to impair any rights or remedies which may have heretofore accrued to said company.

11. The Legislature reserves the right to alter, amend or repeal this act.

12. This act shall take effect when the stockholders of said company shall, in general or special meeting, vote to accept the same, and shall have formally entered its acceptance upon its minutes.

House Bill No. 130.

A BILL authorizing the sale of Delinquent Lands in Webster county.

Be it enacted by the Legislature of West Virginia:

1. William G. Gregory, late sheriff of the county of Webster, or his deputy, is hereby authorized to proceed to sell all delinquent lands in said county for the non-payment of taxes for the years 1861, 1862, 1863, 1864, 1865 and 1866, for State, county and township purposes, and pay over the same according to law.

2. And for that purpose the Auditor is hereby directed to transmit copies of all delinquent lands in said county to said sheriff, on or before the first day of May, 1868; and the sheriff shall give notice of the time and place of sale, by posting notices at the door of the court house and five other public places in the county, and by publishing the same in some public newspaper four successive weeks prior to such sale.

3. The said sheriff, or his deputy, shall, at the court house door of said county, on some public court day, between the hours of ten o'clock, A. M., and four o'clock, P. M., offer for sale said lands, and in all other respects be governed by laws now in force in relation to sale of delinquent lands. And in case such sales are not made from any cause, said sheriff may continue the same as now provided by law, until such sales be completed; and the same per diem shall be allowed for the services rendered under this act as is now provided by law.

4. All acts or parts of acts, so far as inconsistent with this act, are hereby repealed.

House Bill No. 131.

A BILL to relieve certain land in Wirt county from State liens.

Be it enacted by the Legislature of West Virginia:

That all liens upon a tract of land situated on Standing Stone, in the county of Wirt, containing four thousand acres, and conveyed by the heirs of Robert Kemble to Augustus Mailert, in the year eighteen hundred and forty-eight, are hereby released. Provided, however, that this act shall only apply to such liens as exist by virtue of the sale of the said tract of land for delinquent taxes erroneously charged against it by this State, or the Commonwealth of Virginia.

House Bill No. 132.

A BILL providing for the maintenance of Joseph Elliott, a lunatic.

Be it enacted by the Legislature of West Virginia:

That Joseph Elliott be and is hereby provided for in the West Virginia Hospital for the Insane, in the same manner as other inmates of said Hospital.

House Bill No. 133.

A BILL to prevent the destruction of Deer in Webster County.

Be it enacted by the Legislature of West Virginia:

1. It shall not be lawful for any person or persons, in the county of Webster, to hunt, chase, catch or kill, or in any way destroy deer by dogs, except that a deer be first shot and wounded, and then may be caught by a dog.

2. Any person violating this act by allowing his dog or dogs to run, chase or destroy deer in said county, shall be fined ten dollars for each offence and the cost incurred before any justice of the peace of said county, one-half to go to the informer and the other half to the road funds in the precinct where the crime was committed.

3. Any dog or dogs found or known to run or catch deer, and the owner of such dog or dogs be notified of the fact, and the dog or dogs be found transgressing this act a second time or more, upon the affidavit of any person who is a lawful witness to testify in other cases before any justice of the peace, such justice shall issue his warrant directed to any constable, to arrest and bring such dog or dogs before him, and on proof of guilt, may condemn such dog or dogs to be killed, and the constable, upon a copy of such judgment signed by the justice, shall forthwith kill the same dog or dogs, and shall be entitled to fifty cents for each dog he may so kill, which shall be recovered off the owner of such dogs.

4. The same fees shall be allowed to the justice, constable and witnesses as is now allowed by law for similar services.

5. Any act or parts of acts that is inconsistent with this act is hereby repealed.

House Bill No. 134.

A BILL to amend and re-enact sections three and four of the act passed February 27, 1867, entitled "An Act for the establishment of a State Normal School."

Be it enacted by the Legislature of West Virginia:

That sections three and four of the act passed February 27, 1867, entitled "An act for the establishment of a State Normal School," be and the same are hereby amended and re-enacted so as to read as follows:

3. The said school shall be under the general supervision and control of the said Regents. They shall have full power and authority to adopt and establish such by-laws, rules and regulations for its government as they may deem necessary and proper to effect the object of its establishment, not inconsistent with the laws of this State. They shall fix the number and compensation of the teachers and others to be employed therein, and appoint and remove the same; prescribe the preliminary examination of pupils, and the terms and conditions on which they shall be received and instructed in said school; the branches of learning to be taught in each department thereof; and shall determine the number of pupils to be received into the Normal department of said school from each county and senatorial district of this State, conforming as nearly as possible to the ratio of population therein, and the

mode of selecting them. The pupils admitted into the Normal department of said school shall be admitted to all the privileges thereof, free from all charges for tuition or for the use of books or apparatus, but every such pupil shall pay for books lost by him, and for any damage done by him to such books or apparatus; and any pupil in said school may be dismissed therefrom by said Regents, or by the executive committee, subject to approval of the Regents, for immoral or disorderly conduct, or for neglect or inability to perform his duties. The State Superintendent of free schools shall prepare suitable diplomas to be granted to the students of the Normal department of said school who have completed the course or courses of study and discipline prescribed by said Regents; and such diploma, when signed by said superintendent and the principal of the Normal department of said school, shall, of itself, be a sufficient certificate of qualification to teach common schools; but such diploma may be annuled by the State Superintendent of free schools for the intemperance or other immoral conduct of its holder. The said Regents may also establish a pay department in said school whenever the accommodations thereof will admit of the same, and may admit into such department so many paying students as can be accommodated therein from this or any other State, whether they desire to become teachers of common schools or not. They may cause to be taught in the said department of the said school, all or any of the branches of learning usually taught in colleges and seminaries, and for that purpose

may establish therein the necessary professorships. They may also make all the necessary rules and regulations for the government of the said department, and prescribe the tuition and terms of admission therein. The sum of $2,500 per annum for two years is hereby appropriated and placed at the disposal of the said Regents, for the purpose of paying the salaries of teachers and the other necessary expenses of the said Normal department of the said school for and during the years 1868 and 1869, which sums shall be paid out of the treasury of the State upon orders drawn by the said Regents, and signed by their president and Secretary. The said school shall continue to be called and known by the name of "Marshall College."

4. The said Regents shall appoint three intelligent and discreet persons, residents of the county of Cabell, who shall constitute an executive committee for the care and immediate management and control of said school, subject to the rules and regulations prescribed by said Regents. Said committee shall designate the person to take charge of the boarding department of said school, and shall fix the price to be paid for board therein. They shall, from time to time, make full and detailed reports to said Regents of the condition, working and prospects of said school, and shall do and perform such other duties in relation thereto as the said Regents may from time to time prescribe.

House Bill No. 135.

A BILL to authorize the Trustees of Mount Wood Cemetery Association to levy a Special Annual Tax upon the Lot Holders thereof.

Be it enacted by the Legislature of West Virginia:

That for the purpose of providing a fund to pay the annual expenses for the care and adornment of the burial grounds of the Mt. Wood Cemetery Association, situate in the city of Wheeling, it shall be lawful for the Trustees of said Association to levy and collect by warrant before any Justice of the Peace in Ohio County, an annual tax not exceeding two dollars on every lot or part of a lot in said Cemetery, and every owner of said lot or part of a lot is hereby required to pay such assessment to the Treasurer of said Association. Provided that the above enactment shall take effect and be of force only from the date at which the majority of the owners of lots or parts of lots in said Cemetery shall agree thereto.

House Bill No. 136.

A BILL establishing a permenent seat of government for this State.

Be it enacted by the Legislature of West Virginia:

1. That the permanent seat of government of this State be, and the same is hereby established at Bridgeport in the county of Harrison, on lands conveyed to the State by by deed bearing date the day of 18 .

2. This act shall take effect and be in force on and after the first day of June next.

House Bill No. 137.

A BILL authorizing Robert White, of the county of , to practice law in the Courts of this State without taking the oath prescribed by chapter 30 of the Acts of 1866.

Be it enacted by the Legislature of West Virginia:

1. That Robert White, of the county of Hampshire, late a practicing attorney in this State, be and he is hereby exempted from the provisions of the act of the Legislature, passed on the 14th day of February, 1866, entitled "An Act in relation to the oaths of attorneys-at-law," and he is hereby authorized to practice law in all the courts in this State without taking the oath prescribed by said act.

2. The Legislature reserves the right to repeal this act at any time, when in their discretion they may deem it proper to do so.

House Bill No. 138.

A BILL to authorize James W. Davis, of the county of Greenbrier, to practice law in the Courts of this State without taking the oath prescribed by chapter 30 of the Acts of 1866.

Be it enacted by the Legislature of West Virginia:

1. That James W. Davis of the county of Greenbrier, late a practicing attorney in this State, be and he is hereby exempted from the provisions of the act of the Legislature, passed on the 14th day of February, 1866, entitled "An Act in relation to the oaths of attorneys-at-law," and he is hereby authorized to practice law in all the courts in this State without taking the oath prescribed by said act.

2. The Legislature reserves the right to repeal this act at any time, when in their discretion they may deem it proper to do so.

House Bill No. 139.

A BILL concerning the Statute of Limitations.

Be it enacted by the Legislature of West Virginia:

That in computing the time within which any civil suit or proceeding or appeal shall be barred by any Statute of Limitations, as to persons whose suits, if brought, are liable to be dismissed under the provisions of the act passed February 28th, 1865, entitled "An act to prevent the prosecution of suits and the sueing out of process by persons engaged in rebellion," and acts amendatory thereof, the period from the passage of said act until its repeal shall be excluded from such computation. And suits now pending or which may be hereafter brought, in favor of persons laboring under such disability shall not be dismissed, on account thereof as provided for in said act, but the trial thereof may at the instance of the defendants, be postponed until the said act shall be repealed, and the costs of the continuance of the cause on the docket shall not be charged to the defendant in case of recovery against him.

House Bill No. 140.

A BILL amending the General Free School Law.

Be it enacted by the Legislature of West Virginia:

The third, fifth, eighth, tenth, eleventh, thirteenth, fourteenth, seventeenth, eighteenth, nineteenth, twenty-second, twenty-third thirtieth, thirty-first, thirty-sixth, thirty seventh, forty-fifth, forty-sixth, forty-seventh, forty-eighth, fifty-ninth, and sixtieth sections of chapter 98 of the Acts of 1867, an act entitled "An Act regulating Free Schools," are hereby amended and re-enacted so as to read as follows:

3. After the first election therefor in any township, whether the same has been heretofore or shall be hereafter held, one school commissioner for such township shall be annually elected, whose term of office shall commence on the first day of January following.

5. The school commissioners and their secretary shall constitute the township board of education; and as such they and their successors shall be a corporation by the name of "The Board of Education of the Township of ;" but the secretary shall have no vote as a member of said board, except in the case of an appointment to fill a vacancy in the office of school commissioner.

8. The board of education, at the first meeting after their election, and annually thereafter, at such time as they may designate, shall organize by the election of a president from among their number, and by the election of a secretary. The secretary shall attend

all meetings of the board, and record all their official proceedings in a book to be kept for the purpose, and attest such record by his signature; and the same shall at all seasonable times be open to the inspection of any person interested therein; he shall have the care of all papers belonging to the board containing evidences of titles, contracts or obligations, or which are otherwise valuable, and preserve the same in his office, properly arranged for reference, and shall record or keep on file in his office, such papers and documents as the board or law may direct; he shall keep such accounts and prepare and certify such reports and writings pertaining to the business of the board, as the board or law may direct. For his services as secretary he shall receive such compensation as the board may determine, not exceeding twenty-five dollars per year, to be paid out of the school fund quarterly, by an order drawn by the county superintendent, when, after an examination of said secretary's books by the said county superintendent, they are found to be correct.

10. The board shall divide their townships into convenient school districts, having due regard for the school houses already built or sites procured, and assigning, if practicable, to each district, not less than fifty youths between the ages of six and twenty-one years. They may change the boundaries of such districts and increase or diminish the number thereof; provided, that every village consisting of fifty inhabitants shall be included in one district; and provided, further, that no change in any district shall take effect except immediately after the annual apportionment of the general school

fund. Where such village as is mentioned in this section, is divided by township or county lines, the said village shall be included in a district to be under the supervision of the board of education of the township to which the largest division of territory is attached.

11. The board of education shall cause to be kept in every school district of their township, by a teacher or teachers of competent ability and good morals, a sufficient number of primary schools, for the instruction of the persons entitled to attend the same. The following persons, when residing in a school district, with intent to make such district their home, shall have a right to attend and receive instruction at the primary schools thereof; that is to say, every youth between the ages of six and twenty-one years shall have such right; and every person honorably discharged from the military or naval service of the United States or this State, shall have the right to receive instruction for five years, without regard to his age; and any person wishing to receive instruction at any free school in this State, shall have a right to attend such school, and the teacher or teachers there employed shall give instruction to such person the same as is required by law, upon the payment of such tuition fees, and upon such other terms as the trustees of the district may prescribe; said tuition fees shall be paid into the township treasury, and placed to the credit of said district.

13. The board of education shall have general control and supervision of the schools in their township; but in each district three trustees, resident voters thereof, shall be appointed by the board of education, on or before the first Monday in July, whose terms of

office shall begin on the first day of September following, and continue for three years, or until their successors in office are qualified, except those first appointed, whose terms of office shall be respectively for one, two and three years, as the board of education may determine; one to be appointed annually thereafter. Every trustee shall, within ten days after his appointment, before the secretary of the board, or any one qualified to administer oaths, subscribe to the oaths required of all the officers of the State; but upon failure to qualify, or for any other just cause made apparent upon investigation, after ten days' notice being given him of any complaint, with fair opportunity for defence, the board may declare his office vacant. All vacancies shall be filled by the board of education; when competent persons cannot be induced to serve as trustees, the board of education may assume all the duties of trustees.

14. Whenever it shall happen that persons are so situated as to be better accommodated at the primary school of an adjoining district, whether in the same or in an adjoining township or county, or whenever it may be desirable to establish a school composed of pupils from parts of two districts, whether in the same or an adjoining township or county, it shall be the duty of the trustees of the districts interested to transfer such person, for school purposes, to the district in which such school house is or may be situated, but the enumeration of youths shall be taken in each district as if no such transfer had been made; and such schools, when so composed, shall be supported from the funds of the respective districts from which the pupils may have been transferred, in proportion to their

number; and the trustees of the district in which the school house is situated shall have the management of such school; and the trustees of the districts so connected for school purposes, shall each make the proper estimates of their share of the expenses of every kind necessary to sustain said school, and certify the same to the school board of their respective townships, as a part of their annual estimates for school purposes, which board shall draw orders on their respective township treasurers for such sum as will be in proportion to the enumeration of youths so transferred, in favor of that township in which such school is located, to be appropriated to the payment of teachers, and for other purposes connected with the establishment or maintenance of such school, provided that no transfer shall be made unless the distance is such that scholars cannot reach their own school house under two miles, or streams of water render it very inconvenient to attend their own school; provided further, that in all cases of transfer the scholar transferred shall only carry with him or her his or her *pro rata* share of the school funds of their own district.

17. They shall cause the school houses under their charge, and everything petaining thereto, to be kept in good order and repair, and for this purpose it shall, among other things, be their duty to cause proper suits and prosecutions to be instituted, in the name of the board of education of the township, or otherwise, against every person who shall injure or destroy any school property of which the said trustees have charge. The trustees shall furnish to the board of education estimates of all improvements other than those named

in the eighteenth section of this act, necessary to the preservation of buildings, grounds and furniture under their charge.

18. The trustees of the respective districts shall keep exact accounts of all necessary expenses incurred by them in the performance of their duties, including the salaries of the teacher or teachers, designating the fund on which such expenses are a charge, according to the truth, and shall, as often as necessary, render to the secretary of the board of education written accounts, by items, of all such expenses, which, if the board find them correct, they shall pay by order on the township treasurer, signed by their secretary and president. And all expenses incurred by the said board in building, furnishing, purchasing and preparing property, rent and other outlay necessary to the performance of their duties, shall be paid by the board in the same manner. The trustees of any school district may purchase fuel, water buckets, coal hods, shovels, pokers, stove-pipes and dippers, for use in the school room. They may make such repairs in windows, doors, benches, desks, floors, walls, ceilings and roofs as may render the house comfortable. For such purchases or repairs they shall render to the secretary of the board of education an account, which, if the board find correct, they shall pay out of the school fund of the district.

19. White and colored persons shall not be taught in the same school, but to afford to colored children, as far as practicable, the benefits of a free school education, it shall be the duty of the trustees of every school district to establish therein one or more primary schools for colored persons between the ages of six and twenty-one

years, whenever the number of such persons residing therein, and between the ages aforesaid, exceed fifteen, according to the enumeration made for school purposes, the trustees of two or more school districts, whether in the same or adjoining townships or counties, may, by agreement with each other, join in establishing a primary school for the colored children residing in the said districts: and such schools so established shall be subject to the same regulations that are provided for the schools for white children in section fourteen of this act.

22. The teachers of every district shall monthly make a report to the secretary of the board of education of their township, setting forth, in reference to their school district, the following particulars, that is to say: The number of schools under their charge; the number and condition of school houses; the number of male and female teachers; their average salary per month; the whole number of youths between six and twenty-one years, according to the latest enumeration made for school purposes; the number of scholars who attended school during the month, the average daily attendance, distinguishing between males and females; amount paid to teachers; the expenses of cleaning and taking care of the school house or houses; the amount paid for fuel; the amount paid for other school purposes; total expenditures; value and kind of apparatus; number of volumes in school libraries and their value, with such explanations, remarks and additional information as the said teacher may deem useful, or as the blanks furnished by the general superintend-

ent of free schools may require. They shall also report in relation to any school under their charge for colored persons.

23. The secretary of the board of education, to whom the report of teachers shall have been made, as provided in the twenty-second section, shall revise the said reports, and if they be found erroneous or defective, may return them for correction. From the corrected report, and such other authentic information as he is able to obtain, he shall make a report to the county superintendent, on or before the twentieth day of September annually, in tabular form, by districts, embracing each particular reported to him by the said teachers, and showing the aggregate or average of each, as the case may require, for his township. And he shall, further, report to the county superintendent, on or before the twentieth day of September annually, the following additional particulars in reference to his township, for the year ending on the preceding thirty-first day of August; that is to say: the rate and amount of tax levied for building purposes, including the purchase of sites for school houses, the construction and furnishing of the same, and the rent, hire and repair of such property; the rate and amount of tax levied for other school purposes; amount of such taxes collected and paid over to the township treasurer to the credit of the township; amount received from the State for school purposes; amount received from other sources; total receipts; total expenditures; with such explanations, remarks and additional information, as he may deem proper, or as the blanks furnished by the school department may require.

30. No teacher shall be employed to teach in any public school of

this State, until he shall have presented to the trustees, directors or board having charge of such school, a certificate in duplicate of his qualification to teach a school of the grade for which he applies, the duplicate of which shall be filed with the secretary of any board of education in the county in which the school is situated, and so endorsed on the original by the secretary; and no salary shall be paid to any teacher unless such duplicate be filed as aforesaid. Upon the receipt of one dollar, to be paid into the general school fund on or before the first day of March, the county superintendent shall examine each candidate for the profession of teacher, as to his or her competency to teach orthography, reading, writing, arithmetic, English grammar and geography, if the application be for a primary school; and if the application be for a higher school, he shall examine the applicant as to his competency to teach the additional branches required for such school, and if satisfied of the competency of the applicant to teach and govern such school, and that he or she is of good moral character, he shall give a certificate in duplicate accordingly. The county superintendent shall keep a register of all certificates awarded by him, stating the character and grade of certificate and the time when issued. No certificate issued by a county superintendent shall be of force, except in the county in which it was issued, nor for a longer period than one year; and the county superintendent may, with the consent of the trustees, directors, or board having charge of the school in which he may be teaching, revoke the certificate of any teacher within the county, for any

cause which would have justified the withholding thereof, when the same was granted, by giving ten days notice to the teacher of his intention to revoke such certificate. The county superintendent shall, at stated periods, hold public examinations, at which all applicants for certificates may be required to attend. County superintendents may be employed as teachers without the certificates required of teachers.

31. The following regulations shall be observed by county superintendents in regard to examinations and granting of teachers' certificates: First, No applicant shall be admitted to an examination unless the county superintendent shall have reasonable evidence that he or she is of good moral character and temperate habits, and loyal to the Government of the United States and the Government of the State of West Virginia. Second, No college diploma or certificate, or recommendation from the president or faculty of any college or academy, shall be taken to supersede the necessity of examination by the county superintendent, nor shall a certificate be granted to an applicant except after careful examination upon each branch of study and upon the art of teaching. Third, County superintendents shall grade the certificates granted according to the following scheme, numbering them according to the merit of the applicant, from one to five: Number three shall be assumed as the medium between a very good and an indifferent teacher, so that the scheme will stand thus: number one, a very good teacher, one accomplished in every respect; number two, a good teacher; number three, medium; number four, below medium; number five, indiffer-

ent. A number five certificate shall never be granted to a teacher more than once. If, upon a second examination, the applicant is not found entitled to a higher grade, no certificate shall be granted. A number four certificate shall not be granted more than twice in succession to the same applicant. If, at the third examination, the applicant is not found entitled to a higher grade, no certificate shall be granted. When any teacher has received three number one certificates, he shall be entitled to receive from the county superintendent, a recommendation to the general superintendent of free schools for examination, and if found worthy, the general superintendent shall grant him a professional certificate in proper form, engraved upon parchment, authenticated by the seal of his office and attested by his signature thereto; by which certificate the bearer shall be legally admitted to the profession of teacher within the State of West Virginia, which certificate shall be valid throughout the State and during the life of the bearer thereof; provided, that the general superintendent shall revoke such professional certificate for immorality, intemperance or disloyalty, when clearly proven. For every professional certificate a fee of five dollars shall be paid into the distributable school fund.

36. The board of education of every township, with the county superintendent, shall, as soon at possible, examine the school houses and school house sites in the township, heretofore appropriated to the use of public schools, and such as in their judgment are properly located, and are sufficient, or can at reasonable expense be rendered so, shall be retained for the use of public schools, and the remain-

der, with the consent of the county superintendent, shall be sold at public sale, or otherwise, and on such terms of sale as the board may order, and the proceeds added to the building fund.

37. The board of education of every township shall provide by purchase, condemnation, leasing, building, or otherwise, suitable school houses and grounds in their township, in such locations as will best accommodate the inhabitants thereof, and improve such grounds and provide such furniture, fixtures and appendages for the said school houses, as the comfort, health and convenience of the scholars may require; and keep such grounds, school houses, furniture, fixtures and appendages, in good order and repair. Boards of education of adjoining townships or counties may jointly provide for the erection of school houses for the accommodation of adjoining portions of townships or counties, for high schools, union schools or district schools, which, from local causes, cannot be conveniently attached to districts in the townships or counties to which they belong. The title to such houses shall be vested in the board of education having supervision of the district containing the greatest number of children; and terms indicating a trust for the purpose aforesaid, shall be introduced into an agreement made between the boards of education interested. Such school houses shall be provided with furniture, fixtures, and such other appendages as are supplied to school houses generally. An equitable amount shall be assessed on each township interested, by the respective boards of education, for the purposes aforesaid. Boards of education shall, in every case, require bond of all contractors for building or repairing

school houses. No board of education, nor any member thereof, shall become a contractor for building or repairing school houses, under a penalty of one hundred dollars, to be recovered by the action of any person before any justice of the county in which such contract is made, upon proof of such contract. Money borrowed by boards of education shall be paid into the township treasury.

45. After the expiration of the year eighteen hundred and sixty-eight, no township shall receive any share of the distributable State fund for free schools in any year in which the levy required by the forty-fourth section has not been made in such township.

46. Whenever any levy for primary schools, high schools or building purposes has been made, the secretary of the board of education shall certify a copy of the order making such levy to the assessor of the county, whose duty it shall be to make out and furnish to the said secretary, on or before the first day of July, a list of all property taxable in said township, including in said list every tract of land the greater part whereof lies in said township, and he shall extend the said list so as to show, in the first column, the name of the property owner; in the second column, the amount of acres of land owned by him; in the third column, the value of such land with the improvements thereon; in the fourth column, the aggregate value of his personal property; in the fifth column, the total value of his real and personal property, and in the sixth column, the amount due from such person; which list shall be in form as follows:

LEVY FOR SUPPORT OF SCHOOLS AND BUILDING FUND FOR ——— TOWNSHIP FOR THE YEAR ——.

Name of Property Owner.	Number of Acres.	Value.	Value of Personal Property.	Total Value.	Am't of Tax due.	

16 Which list shall be transmitted by the secretary to the treasurer of
17 his township, as his guide for the collection of said tax, which he
18 shall collect and account for as hereinafter provided. The said sec-
19 retary shall, in a book kept for the purpose, charge the treasurer to
20 whom such list is delivered with the amount of taxes assessed
21 thereon, and shall, from time to time, credit him with all orders
22 drawn on him by the board, and his compensation for collecting and
23 disbursing the same, and any delinquent list which may be allowed
24 by the said board. The assessor, for his services under this section,
25 shall be paid by the board of supervisors, out of the county levy,
26 not exceeding three dollars for each township.

47. The township treasurer shall collect all levies for school pur-
2 poses made in his township. Immediately on receiving the asses-
3 sor's list, he shall post notices in five prominent places in his town-
4 ship, stating that he will, thirty days thereafter, at the specified times
5 and places, receive the aforesaid taxes. On all sums remaining unpaid

after the last time named in the notices, he shall add five per cent, which shall be paid into the school fund. The board of education may for good reason, at any time previous to the treasurer's posting his notices, provide such other means of collection as they may deem expedient, and extend the time thereof. The township collector, whether the treasurer or one appointed by the board of education, shall have power to collect the township taxes in the same manner as the State taxes are collected, by distraint or otherwise. Lands returned delinquent by township treasurers, shall be reported by them to the board of education, and by their secretary to the board of supervisors of the county, who shall make return of them to the auditor of public accounts, who shall sell such lands in the same manner and at the same time that lands returned delinquent for other taxes are sold, and the proceeds of sale shall be returned to the school fund of the township from which such lands were returned delinquent.

48. The township treasurer shall be treasurer of all school money for his township. He shall give bond in such amount as the board of education may require. He shall be allowed not exceeding five per cent commission for collecting all township school levies, and one per cent for all disbursements; provided, that his commissions for collecting and disbursing shall not, in any one year, exceed six hundred dollars. He shall, on or before the first Monday of September, December, March and June, settle with the board of education, and account to them for all the money received, from whom and on what account, and the amount paid out for school purposes in his

township. The board shall examine all vouchers for such payments, and, if correct, shall give him a certificate of the same, which certificate shall be a discharge of such treasurer; and at the expiration of his term of office, said treasurer shall deliver over to his successor in office, all books and papers, with all money or property in his hands belonging to said township for school purposes therein. If he fail to account for and pay over, as required by law, any money which has come to his hands, or for which he is liable by virtue of his office, judgment may be recovered therefor with interest and ten per cent damages.

59. There shall be distributed on the first day of April annually, to the several counties in the State, in proportion to the number of youth therein, according to the latest enumeration made, for school purposes, the interest payable by the State, as provided in the fifty-eighth section, together with the net proceeds of all forfeitures, confiscations and fines which accrued to the State during the previous year, and the proceeds of the annual capitation tax and of the State tax on real and personal property for the support of free schools, and dividends on bank stock held by the board of school fund, and the interest accruing on stock invested in United States bonds, after deducting from the aggregate the salary of the general superintendent of free schools for the State, and the necessary traveling and contingent expenses of his office. But in ascertaining the number of youth in any county for the purpose of making such distribution, those townships only of such county shall be included in which the enumeration of youth has been made as provided for in

the twenty-first section of the said act of 1867; provided, that any county or counties not having a sufficient number of youth to entitle such county or counties to fifty per cent of the whole amount paid into the general school fund by such county or counties, it shall be the duty of the general superintendent to set apart or credit to such county or counties, thirty-three and one-third per cent of the fund so paid by any such county, and the remaining portion of such funds shall go into the general school fund, of which such county or counties shall receive a *pro rata* share.

60. It shall be the duty of the auditor, on or before the first day of April in every year, to ascertain the amount which is distributable among the several counties, as aforesaid, and notify the general superintendent of free schools thereof; and the general superintendent shall thereupon ascertain the proper share of each county, and notify the auditor, and also each county superintendent, who shall ascertain the proper share of each township in his county, according to the number of youths, and notify the auditor thereof, and draw his requisition upon the auditor in favor of the several township treasurers of each county for the share which each township is entitled to receive, specifying the amount thereof and the name of each treasurer in the said requisition; and shall immediately notify the secretary of the board of education, who, after deducting the commission of the township treasurer, shall apportion three-fifths of the same and all other school funds belonging to the township, among the school districts, according to the number of youths; and

the remaining two-fifths shall be placed at the discretion of the board of education of the township, to be distributed among the districts so as to use the schools in each district in their township the same number of months during the year.

House Bill No. 141.

A BILL for the collection of taxes in Berkeley county.

Be it enacted by the Legislature of West Virginia:

1. All taxes assessed in Berkeley county, except road taxes, shall be collected by the township treasurers in their respective townships. Each treasurer shall commence his collection yearly on the first day of July, or as soon thereafter as he may receive a copy of the assessor's books for the district composing his township, and may, after such time, make distress therefor, when the tax payer is about to remove the property out of his township.

2. The treasurer may appoint a deputy, and take from him a bond, with security for the faithful performance of the duties of his office, but said treasurer and his sureties shall be responsible for the acts of such deputy.

3. The treasurer shall attend in person, or by his deputy, at two of the most public places in his township, which shall include the places of voting, on the fourth Thursday of October, and the Friday and Saturday next following in each year, spending two of said days at one place, and one at the other, from eight o'clock in the forenoon till six o'clock in the afternoon, to receive taxes, having first given not less than twenty days' notice of the said times and places of such meetings, by posting printed notices at not less than ten public places in the township. And on all taxes that shall be paid in full, on or before the last of said days, a discount of two-

and a half per centum shall be made, to be deducted from the treasurer's commissions, but no discount shall be made after the expiration of said days.

4. The treasurer shall receive compensation for collecting and paying over, as required by law, the taxes with which he is chargable, as follows: On the State taxes, a commission of five per centum; on the county taxes, a commission not exceeding five per centum, to be regulated by the board of supervisors; on the township taxes for school and building purposes, a commission of not exceeding five per centum, to be regulated by the board of education; and on the township taxes for ordinary purposes, a commission of five per centum.

5. No distress shall be made for taxes or levies where the treasurer has had more than one year to collect the same, unless it be for taxes returned delinquent and sent out by the auditor for collection, as provided for by law; but a treasurer of a former term may, notwithstanding the expiration of his term of office, have the same powers of distress and sale as he possessed before said term expired, and which right of distress and sale shall continue for the term of one year from the time such right accrued.

6. Any goods or chattels in the township belonging to the person or estate assessed with taxes, may be distrained therefor by the treasurer, after the second Monday in December, when he shall proceed without delay to collect the taxes yet unpaid.

7. The goods and chattels of the tenant or other person in possession, claiming under the party or estate so assessed with taxes on

land, may de distrained, if found on the premises. But when taxes are assessed wholly to one person, on a tract or lot of land, part of which has become the freehold of another by a title recorded before the commencement of the year for which such taxes are assessed, the property belonging to the owner of that part shall not be distrained for more than a due proportion of said taxes.

8. Where taxes are assessed on a tract of land lying partly in one county and partly in another, or partly in one township and partly in another, the treasurer of the township in which such taxes are assessed may distrain on the part of the land lying in the other county or township, in the same manner as if such part were in his own county and township.

9. No deed of trust or mortgage upon goods or chattels shall prevent the same from being distrained and sold for taxes assessed against the grantor in such deed, while such goods and chattels remain in the grantor's possession, nor shall any such deed prevent the goods and chattels conveyed from being distrained and sold for taxes assessed thereon, no matter in whose possession they may be found.

10. When the officer cannot find sufficient goods or chattels to distrain for taxes, any person indebted to, or having in his hands estate of, the party assessed with such taxes, may be applied to for payment thereof out of such debt or estate, and a payment by such person of such taxes, either in whole or in part, shall entitle him to a credit for so much on account of such debt or estate. If the person applied to do not pay so much as it may seem to the officer ought to

be recovered on account of the debt or estate in his hands, the officer shall, if the sum due for such taxes do not exceed one hundred dollars, procure from a justice a summons, directing such person to appear before some justice, at such time and place as may seem reasonable, and if the sum due exceed one hundred dollars, he shall procure from the clerk of the circuit court of the county a summons, directing such person to appear before the circuit court for the county, on the first day of the next term thereof. And from the time of the service of any such summons, the said taxes shall constitute a lien on the debt so due from such person, or on the estate in his hands.

11. If such summons be returned executed, and the person so summoned do not appear, judgment shall be entered against him for the sum due for such taxes and costs.

12. If the person so summoned do appear, he shall be interrogated on oath, and such evidence shall be heard as may be adduced, and such judgment shall be rendered as upon the whole case may seem proper.

13. A tenant from whom payment shall be obtained, by distress or otherwise, of taxes due from a person under whom he holds, shall have credit for the same against such person out of the rents he may owe him, except where the tenant is bound to pay such tax by an express contract with such person.

14. Where a tax is paid by a fiduciary on the principal, interest or profits of money of an estate laid out or invested, either under

an order of court or otherwise, the tax shall be refunded out of such estate.

15. The treasurer, after ascertaining which of the taxes assessed in his township cannot be collected, shall, on or before the first Monday of April next succeeding the year for which such taxes were assessed, make out alphabetical lists of three classes: First, a list of property on the assessor's land book improperly placed thereon, or not ascertainable, with the amount of taxes charged on such property, which shall be in the following form:

"*List of Property on the Assessor's Land Book for* ——— *Township, County of* ———, *improperly placed thereon, or not ascertainable, for the year* ——.

Name of person charged with Tax.	Residence.	Estate held.	Quantity of Land.	Description and location of Land.	Distance and bearing from Court House.	State Tax for State purposes.	State Tax for School purposes.	County Tax.	Township School Tax.	Township Building Fund.	Ordinary Township Tax.	Why returned delinquent.

"I, A. B., Treasurer of ——— township, in the county of ———, do swear, that the foregoing list is, I verily believe, correct and just; that I have received no part of the taxes for which the real estate therein mentioned is returned delinquent, and that I have

used due diligence to find property within my township liable to distress for the said taxes, but have found none.

A——— B———,

Treasurer of ——— Township."

Secondly, A list of other real estate which is delinquent for the non-payment of taxes thereon, which shall be in the same form, and with the same oath made and subscribed, as in the above first mentioned list, except that the heading shall read thus:

"List of Real Estate in ——— Township, County of ———, delinquent for the non-payment of taxes thereon for the year ———."

Thirdly, A list of such of the taxes so assessed, other than real estate, as he is unable to collect, which shall be in the following form:

List of persons and property, other than Real Estate, in ——— Township, County of ———, Delinquent for the non-payment of Taxes thereon, for the year ——.

Name of Person charged with Taxes.	Number of Capitations.	Total value of personal property charged.	State tax for State purposes.	State tax for School purposes.	County tax.	Township School tax.	Township building fund.	Ordinary township tax.	Why returned delinquent.

"I, A. B., Treasurer of ——— Township, in the County of ———, do swear that the foregoing list is, I verily believe, correct and just; that I have received no part of the taxes for which the persons and property therein mentioned are returned delinquent, and that I have used due diligence to find property within my township liable to distress for said taxes, but have found none.

A——— B———,

Treasurer of ——— Township.

16. The oaths mentioned in the preceding section shall be subscribed and taken before some person authorized by law to administer oaths, who shall certify the same.

17. The list mentioned thirdly, in section 15, shall be published in a weekly newspaper, if one is published in the county for four weeks, commencing within one month from its examination by the board of supervisors; but if no paper is published in the county, the treasurer shall cause a copy of such list to be posted at each voting place in the township. When published in a newspaper, the expense thereof shall be paid by the county.

18. The board of supervisors of every county shall hold a meeting on the first Monday in April each year, at which time the treasurer shall present the three lists mentioned in the fifteenth section, for the examination of said board. The board having become satisfied of the correctness of said lists, or having corrected them, if erroneous, shall direct their clerk to certify copies thereof, with the amount of State taxes, to the auditor, and a copy of the first mentioned to the assessor, who shall, in making his next land book, leave off all the

tracts mentioned in said list. The original lists shall be preserved by the clerk in his office. After the said copies are so certified, the treasurer shall not receive any of the taxes mentioned in said lists, but the State tax may be paid into the treasury, as now provided by law; and all other taxes therein mentioned may be paid to the credit of the county, as delinquent county taxes on lands are now authorized to be paid.

19. Any officer who shall return in any such list, real estate, persons or property, as delinquent for non-payment of taxes, when such taxes, or any part thereof, shall have been actually received by him, shall forfeit, if the return was by design, ten times the amount of taxes so actually received, and if the return was by mistake, twice the amount; one-half of which forfeiture shall in each case be to the State, and the other half to the persons charged with such taxes. And any such officer who shall return in such list, any real estate, persons or property as delinquent, when he had either found or might have found sufficient property within his township liable to distress for the taxes for which such real estate, persons or property are returned delinquent, shall forfeit to the State a sum equal to five times the amount of said taxes.

20. The copies of the lists directed to be certified to the auditor, shall be placed by the clerk of the board of supervisors in a sealed enclosure, and transmitted to that officer by mail, or otherwise, on or before the twentieth day of April, upon the receipt of which, the auditor shall credit the treasurer with the amount of taxes mentioned in said list.

21. A copy of the third list mentioned in the fifteenth section, shall be placed by the auditor in the hands of the treasurer of any township for collection, within two years from the reception of such list by the auditor, to be returned within one year thereafter, and accounted for as other State taxes. Upon the receipt of such list from the auditor, said treasurer shall apply to the clerk of the board of supervisors, who shall furnish him with a copy of the delinquent county and township taxes pertaining to said list, which said treasurer shall proceed to collect in the same manner as the State taxes in such list are collected, and shall account for the same as for other county taxes. His compensation shall not exceed fifteen per centum of the amount collected and paid over.

22. The State taxes assessed under the law providing for the assessment of taxes on persons and property, and collected under this act, shall be paid into the treasury on or before the first day of February next succeeding the year in which taxes were assessed, save only that the treasurer, who may not have qualified, or who may not have received the books of the assessor before the first day of September, shall be allowed five months from his qualification or the receipt of said books, to pay the same into the treasury.

23. In case of failure so to pay, the auditor shall immediately publish notice of such failure in some newspaper at the seat of government, setting forth that on a certain day, within three months after such failure, he will file in the office of the circuit court of the county wherein is the seat of government, with the clerk thereof, an

accurate account with which any such treasurer may be chargeable on account of such taxes; and thereupon such clerk shall enter up a judgment against such treasurer for the amount wherewith he is so chargeable, with lawful interest thereon from the time of such failure until payment thereof, and fifteen per centum damages in addition thereto, unless the auditor shall recommend a reduction thereof: which judgment shall have the same validity, and be subject in all respects to the like proceedings thereon, as if it had been rendered by the court. But any person aggrieved by such judgment, may apply to the circuit court at the seat of government, within six months after it is so entered up, to set aside said judgment and try such cause. The court, for good cause, may set aside such judgment and proceed to try the case upon its merits, and affirm the same, or render such judgment as it may consider proper. In any case of failure to pay, proceedings may be had according to the forty second chapter of the code of Virginia, second edition, only such proceedings shall be had in the circuit court at the seat of government of the State of West Virginia, and in the name thereof. And from the time a notice shall be served under the said chapter, on any such treasurer, the property of such treasurer shall be bound for the payment of any judgment which may be rendered upon such proceeding, in the same manner that the property is bound under the third section of chapter one hundred and eighty-eight of the said code, upon delivery of a *fieri facias* to the sheriff, or other officer, and shall also operate as a lien on the real estate of such treasurer, from the time of service of such notice. The right of the State to

proceed by notice, or otherwise, against the sureties of such treasurer, shall not be affected thereby.

24. The treasurer shall be the collector of all licenses required under chapter one hundred and thirteen of the acts of eighteen hundren and sixty-three, and the lists authorized by section twenty-one of said chapter, to be delivered to the sheriff or collector, shall be delivered to the treasurer of the township wherein the person obtaining such license resides or does business, and such treasurer shall proceed to collect and account for the same as provided in said chapter.

25. The treasurer shall deliver to any person who shall pay any tax, a receipt therefor, either written or printed, in which shall be specified the number of capitations charged to such person, the total valuation of personal property, the number of acres of land, and the number of town lots, with the valuation of each separate tract or lot, and the taxes on the whole plainly set down and footed up, which shall be signed by said treasurer.

26. The treasurer shall receive in payment of taxes, any county order properly authenticated, which may be presented to him, and shall pay all such orders when demanded, if he has funds belonging to the county.

27. The treasurer shall, on or before the first day of March in each year, make a settlement of the county levy with which he is chargeable, with the commissioner appointed by the board of supervisors. Said treasurer shall deliver to said commissioner all the county orders which he has paid, and said commissioner shall deliver

the same to the board of supervisors with his report of said settlement. Within thirty days after such settlement, the treasurer shall pay whatever may be due from him to the county on such settlement, to the county treasurer.

28. Every township treasurer shall, in lieu of all other bonds now required by law, before entering upon the duties of his office, give bond, with security to be approved by the board of supervisors of the county, conditioned according to law, and in a penalty of not less than five thousand nor more than ten thousand dollars, which bond shall be filed in the office of the clerk of the board of supervisors, who shall, within thirty days after such bond is filed, transmit a copy thereof to the auditor.

29. There shall be elected, on the fourth Thursday in October, 1868, and the same day in every second year thereafter, a township treasurer for every township in the county, whose term of office shall commence on the first day of January next succeeding his election, and continue for two years, and until his successor shall be elected and qualified according to law.

30. All acts and parts of acts inconsistent with the provisions of this act, are repealed when this act shall take effect.

31. This act shall be in force on and after the day of 186

House Bill No. 142.

A BILL to provide for the division of Berkeley county into assessor's districts.

Be it enacted by the Legislature of West Virginia:

1. The county of Berkeley is hereby divided into seven assessment districts: Martinsburg township shall form the first district; Falling Waters township, the second district; Opequan township, the third district; Arden township, the fourth district; Mill Creek township, the fifth district; Gerrardstown township, the sixth district, and Hedgesville, the seventh district.

2. At the annual election in October next, the voters of said county, shall elect for the said districts, seven assessors, each of which shall be a resident of the district which he is to assess, whose term of office shall commence on the first day of January next, and continue for two years or until his successor is elected and qualified.

3. The said assessors shall each copy from the land book of the county so much thereof as relates to their respective districts, but until assessors for each of said districts are chosen as hereinbefore provided, the county shall be assessed, and returns thereof made as though this act had not been passed.

House Bill No. 143.

A BILL authorizing the Board of Supervisors of Wayne county to declare any stream in said county a public highway.

Be it enacted by the Legislature of West Virginia:

1. That the Board of Supervisors of Wayne county is hereby authorized to declare any of the streams in said county a public highway for the transportation of timber.

2. Be it further enacted, that such navigation shall not interfere with any mills or mill dams that are now erected on any of said streams.

House Bill No. 144.

A BILL amending the charter of the town of Spencer.

Be it enacted by the Legislature of West Virginia:

That sections one, seventeen, eighteen and nineteen of chapter forty-one of the acts of eighteen hundred and sixty-seven, entitled "An Act to amend and re-enact the charter of the town of Spencer, in the county of Roane," are hereby amended and re-enacted so as to read as follows:

1. The corporate limits and boundaries of the town of Spencer shall be as follows: Beginning at the corner of Henry D. Chapman's land on the bank of Spring Creek near Crislip's mill dam; thence a westerly course with said Chapman's line to a fill in the Ravenswood turnpike road; thence south-east with said road to its forks at Doyle's tan yard; thence south-east to the highest point of ground in Henry T. Hughes' field west of said town; thence south-east to a corner in the road, of lands owned by said H. D. Chapman and M. B. Hamrick; thence with the line dividing said lands, an easterly course to said Spring Creek; thence down with the meanders of said creek to the beginning, and the council of said corporation are hereby authorized to extend the corporate limits of said town; provided, that it shall not be made to contain more than three hundred acres of land.

17. When anything for which a state license is required is to be done within the said town, the council may require a town license to be had for doing the same and may impose a tax thereon for the use of the said town, and the Board of Supervisors shall not grant a license to any person or persons within said corporation nor within two miles beyond the corporate limits of said town for the purpose of selling ardent spirits unless the party or parties applying for such a license, shall first produce to the said Board of Supervisors a certificate from said town council, showing its approval of the application for such a license, and the council may in any case require from the person or persons so licensed, a bond with securities, in such penalty and with such conditions as it may determine.

18. The sergeant shall collect the town taxes, fines, levies and licenses, and after thirty days from the time he may receive the assessor's books of the said town, may distrain and sell therefor in like manner as a sheriff may for state taxes, and in all respects have the same powers as a sheriff to enforce the payment and collection thereof, and shall within the corporate limits of the said town, exercise all the duties that a constable can legally exercise in the collection of claims, executing and levying process, and shall be entitled to the same compensation therefor, and he shall have authority to arrest persons beyond the limits of the corporation for offences committed against the corporation and may enforce the collection of taxes due said corporation, beyond its limits, and he and his securities shall be liable to all the fines, penalties and for-

feitures that a constable is legally held liable to, for any failure or dereliction in said office, to be recovered in the same manner and before the same tribunals that the same are now recovered against constables.

19. There shall be a lien on real estate within said corporation for the town taxes assessed thereon from the commencement of the year for which they are assessed, and for other assessments, fines, and penalties assessed or imposed upon the owners thereof by the authorities of said town, from the time they are so assessed or imposed, and the council may sell real estate for such taxes, after posting notices in five of the most public places in said county, four weeks previous to the day of sale: Provided, that said real estate so assessed with taxes, cannot be rented for an amount sufficient to pay said taxes within twelve months.

House Bill No. 145.

A BILL to authorize the trustees of the West Fork Baptist Church to convey to James O. Watson the legal title to said church property.

Be it enacted by the Legislature of West Virginia:

Zebulon Musgrave, James Watkins and Isaac Coon, trustees of the West Fork Baptist Church, are hereby authorized to convey to James O. Watson, by deed properly acknowledged for probate, the real estate with its appurtenances, lying and being in Marion county, known as the "West Fork Baptist Church" property; the same conveyed by Daniel Evans to Enoch James and Benjamin Veach, trustees, by deed dated on the 17th day of June, 1809, of record in Harrison county.

House Bill No. 146.

A BILL to authorize the Monongahela Valley Railroad Company, to construct a railroad from the Pennsylvania State Line on the Monongahela River to the Baltimore and Ohio Railroad near Fairmont.

Be it enacted by the Legislature of West Virginia:

1. The assent of the State of West Virginia is hereby given to the Monongahela Valley Railroad Company of Pennsylvania, to locate, construct and maintain a continuation of the railroad of said company, from a point at or near the Monongahela river, where the boundary lines of the states of Pennsylvania and West Virginia crosses said river, to a point on the Baltimore and Ohio Railroad, at or near the town of Fairmont or Palatine, in West Virginia, and shall be subject to all the provisions and liabilities and entitled to all the benefits and privileges of the general laws, chapter 56, Code of 1860, now in force relating to railroad companies, except so far as the provisions of this act are or may become inconsistent therewith: Provided, that the said company shall locate and commence the construction of said railroad within five years, and complete the same within ten years from the passage of this act, and provided further, that said company may connect said railroad with any other railroad now constructed or that may hereafter be constructed in this State with the consent of said railroad company.

House Bill No. 148.

A BILL amending Chapter 58 of the Acts of 1866.

Be it enacted by the Legislature of West Virginia:

That chapter 58 of the Acts of 1866, entitled "An act to provide for punishment for cutting down, injuring or destroying trees and shrubs," be so amended that such trespass on vacant or school lands shall be a misdemeanor, and in addition to the fines now imposed, shall render the party offending liable to imprisonment not exceeding thirty days, at the discretion of the court.

House Bill No. 149.

A BILL to incorporate the town of Buffalo, in the county of Putnam.

Be it enacted by the Legislature of West Virginia:

1. The corporate limits and boundaries of the town of Buffalo, Putnam county, West Virginia, shall be as follows: Beginning at the mouth of Cross creek; thence up the meanders of said creek to the farm line of George E. Allen; thence along said line to the Kanawha river; thence down Kanawha river to the place of beginning.

2. The municipal authorities of said town shall be a mayor, a recorder and five councilmen, who, together, shall form a common council.

3. The mayor, recorder and councilmen, so soon as they have been elected and qualified, as hereinafter provided, shall be a body politic and corporate by the name of "The Town of Buffalo," and shall have perpetual succession and a common seal; and by that name may sue and be sued, implead and be impleaded; may purchase and hold real estate necessary to enable them the better to discharge their duties, and needful for the good order, government and welfare of said town.

4. All the corporate powers of said corporation shall be exercised by said council, or under their authority, except where otherwise provided.

5. There shall be a town sergeant, a treasurer and commissioner of the revenue, appointed by the council, to continue in office at its

pleasure, and perform the duties respectively, as hereinafter prescribed, or as may be required by the council.

6. The duties of the office of recorder, treasurer and commissioner of the revenue may be discharged by the same person, or otherwise, as the council may from time to time determine.

7. The mayor, recorder and councilmen shall be elected by the citizens of the said town, who may be entitled to vote under this act, and (except when elected to fill vacancies) for the term of one year, and until their successors shall have been qualified, and shall be freeholders and residents of said town, and entitled to vote for members of the common council.

8. The first election under this act shall be held on the third Saturday in March, eighteen hundred and sixty-eight, at the academy in said town, under the supervision of a justice of Buffalo township, and annually thereafter there shall be an election on the same day in each year, at such place and under such supervision, rules and regulations as the council of said town may prescribe. The person conducting the first election shall grant certificates to the persons elected, which shall be entered upon the records, with ordinances of said council, and their term of office shall commence on the first day of April next after election.

9. All persons residents of said town, and entitled to vote for county and township officers, shall be entitled to vote for mayor, recorder and councilmen.

10. The terms of office, powers, duties, compensation and liabilities of the council and officers of said town shall be those prescribed in sections ten to twenty-eight inclusive of chapter fifty-nine of the acts of eighteen hundred and sixty-six.

House Bill No. 150.

A BILL Appropriating the Public Revenue for the Fiscal Year 1868.

Be it enacted by the Legislature of West Virginia:

1. All payments made by the Treasurer of this State, in excess of Appropriations authorized by law, and all payments made since the thirtieth day of September, eighteen hundred and sixty-seven, by virtue of Appropriations made by the act passed February 28, eighteen hundred and sixty-seven, entitled "An act Appropriating the Public Revenue for the Fiscal Year eighteen hundred and sixty-seven," or under the provisions or by virtue of any general or special law requiring such payments, if made upon warrants legally issued by the auditor, are hereby legalized. And all money remaining in the Treasury on the first day of October, eighteen hundred and sixty-seven, or that may have since been thereunto paid, the surplus of all appropriations made prior to the fifteenth day of January, eighteen hundred and sixty-eight, and all money that may come into the Treasury before the first day of October, eighteen hundred and sixty-eight, subject to Appropriation for State purposes, shall constitute a general fund and be appropriated as follows:

For expenses of the Legislature of eighteen hundred and sixty-eight, twenty-five thousand dollars.

For rent of Linsley Institute, including repairs and furniture, one thousand one hundred dollars.

For salaries of the Judges of the Supreme Court of Appeals and of the Circuit Courts, twenty-eight thousand dollars; for salary of the Clerk of the Supreme Court of Appeals, one thousand dollars; and for salary of the Reporter of the Supreme Court of Appeals, one thousand dollars.

For Contingent Expenses of Courts, three thousand seven hundred dollars.

For salary of the Governor, two thousand dollars; auditor, one thousand five hundred dollars; secretary of the State, one thousand three hundred dollars; treasurer, one thousand four hundred dollars; adjutant-general, one thousand five hundred dollars.

For salary of first clerk in auditor's office, one thousand two hundred dollars; for salary of second clerk in auditor's office, one thousand dollars; for salary of first clerk in adjutant-general's office, one thousand dollars; for clerk of the house of delegates as keeper of the rolls, three hundred dollars; for salary of clerk in the treasurer's office, four hundred dollars; for salary of vaccine agent, one hundred and fifty dollars; for janitor and guard for executive offices, eight hundred dollars.

For civil contingent fund, nine thousand dollars; for contingent expenses of auditor's office, including books, stationery, printing, postage and fuel, one thousand six hundred dollars; for contingent expenses of adjutant general's office, twelve hundred

dollars; for contingent expenses of the office of secretary of the state, including clerk hire, one thousand three hundred dollars; for contingent expenses of treasurer's office, three hundred dollars.

For criminal charges, the arrest, conveyance and support of criminals in jails, conveying them to the penitentiary, and pay of witnesses and jurors, three thousand five hundred dollars.

For support of convicts in the penitentiary, fifteen thousand dollars.

For current expenses of the West Virginia Hospital for the Insane, forty thousand dollars

For expenses of lunatics confined in jails, five thousand dollars.

For expenses of lunatics in insane asylums at Williamsburg and Staunton, Virginia, thirteen thousand eight hundred and fifty dollars.

For public printing, fifteen thousand dollars; for balance due for printing Code, (Lamb's report,) three hundred and forty-one dollars and sixty cents; for printing second volume of the report of the Supreme Court of Appeals, one thousand eight hundred dollars.

For payment of militia claims allowed by regimental courts, five hundred dollars.

For expenses of registration of births, deaths and marriages, one thousand two hundred dollars.

For refunding over paid taxes, and payment of commissions to sheriff and and other officers, six thousand dollars.

For refunding taxes erroneously assessed, five hundred dollars.

For expenses of registration of voters, seven thousand five hundred dollars.

For procuring and distributing soldiers' medals under joint resolution adopted Febuary first, eighteen hundred and sixty-six, one thousand dollars.

For expenses for guards, &c., for the Penitentiary, ten thousand dollars.

For refunding capitation tax to certain counties, under act of February fourteenth, eighteen hundred and sixty-five, five thousand dollars.

For expenses for an extra session of the Legislature, twenty-five thousand dollars.

2 It shall be lawful to make any payment authorized by this act, any time prior to the first day of March, eighteen hundred and sixty-nine

House Bill No. 152.

A BILL to incorporate the Pan Handle Railroad Company.

Be it enacted by the Legislature of West Virginia:

1. That for the purpose of constructing a railroad from the Holli-
2. day's Cove Railroad, in Brooke county, to the town of Wellsburg,
3. and thence to the city of Wheeling, it shall be lawful to open books
4. in the town of Wellsburg, under the direction of Adam Kuhn,
5. Thomas Everett, William H. Harvey, Lewis Applegate and A. M.
6. Buchanan; and in the city of Wheeling, under the direction of
7. Sobeieski Brady, Thomas Sweeney, J. C. Atchison, Thomas H. Lo-
8. gan and Andrew Wilson; and at such other place or places as said
9. commissioners; or any three of them may decide, and under the
10. control of such agents as they may appoint, for the purpose of re-
11. ceiving subscriptions to an amount not less than twenty, nor more
12. five hundred thousand dollars, to be divided into shares of fifty dol-
13. lars each.

2. So soon as the sum of twenty thousand dollars shall have been
2. subscribed, the subscribers and those who may thereafter become
3. associated with them and their successors, shall be and are hereby
4. incorporated by the name and style of "The Pan Handle Railroad
5. Company," subject to all the provisions and entitled to all the ben-
6. efits now conferred by law upon internal improvement companies,
7. (in which the State has no interest,) and especially to the provis-

ions of chapters 56, 57 and 61 of the Code of Virginia, edition of 1860, except as herein otherwise provided.

3. In all meetings of the stockholders each shareholder shall be entitled to cast one vote for each share of stock he may own, and should the amount of stock subscribed be, in the judgment of the board of directors, insufficient to complete and equip said road, it shall be lawful for the said board to borrow from time to time such sums of money as it may deem proper at a rate of interest not exceeding seven per cent or legal interest, and secure the payment thereof by a lien upon their road and property, or such portion thereof as they may deem advisable.

4. It shall be lawful for the board of supervisors for the counties of Brooke and Ohio, respectively, to subscribe on behalf of said counties to the capital stock of said company, to such an amount as to said board may seem proper; provided the assent of the voters of said counties be first had thereto, the same to be ascertained in manner provided by the ninth section of chapter 78 of the laws of this State, passed October 21, 1863; but said section shall not otherwise apply to the subscription herein authorized, and should such subscription be made on behalf of said counties or either of them, it shall be lawful for the board of supervisors to raise the money necessary to make the same, by issuing the bonds of the counties respectively, bearing interest, payable at such times as to such board may seem best, and provide for the payment of the same at maturity, as in other cases of county indebtedness, and may also exempt said bonds from taxation for county and township purposes.

5. The like authority to subscribe to the capital stock of said company such an amount as she may deem proper, is hereby conferred upon the city of Wheeling, the assent of her voters being first had and obtained in the manner now provided by law.

6. Section first of chapter 19, entitled "An Act to amend the charter of the Holliday's Cove Railroad Company," of Acts of the General Assembly of Virginia, passed January 19, 1863, is hereby repealed.

7. The Legislature reserves the right to alter or amend this act.

House Bill No. 153.

A BILL for the relief of certain persons under disabilities growing out of the late rebellion.

Be it enacted by the Legislature of West Virginia:

1. Every person in this State now under any disability by reason of his participation in the late rebellion against the United States, who, since such disability was incurred, has volunteered into the military or naval service of the United States, and has been, since the 1st day of June, 1861, honorably discharged therefrom; and has been or shall be duly registered as a voter in any county in this State, shall be eligible to and may discharge the duties of any office to which he may be elected or appointed, if he is otherwise qualified under the constitution and laws of this State to fill the same without taking the oath prescribed by chapter 106 of the actt of 1863. But every such person shall, before entering upon the duties of any office or trust, take an oath that he will support the constitution of the United States and of this State, and that he will faithfully and impartially discharge the duties of his office to the best of his ability.

2. Every such person, if otherwise duly authorized and qualified according to law, may be admitted to practice law in all the courts of this State without taking the oath prescribed by chapter 30 of the acts of 1866.

3. Every such person may sue for and collect any debt of which he may be the owner, without taking any of the oaths prescribed by chapter 79 of the acts of 1865, and said chapter shall not apply to any action, suit or proceeding prosecuted by any such person or for his benefit.

House Bill No. 154.

A BILL legalizing the assessments made in 1867.

WHEREAS, By the provisions of sections seventy-nine and eighty-four of chapter 129 of the acts of 1867, the land and property books of the assessors are to be examined by the recorders of the respective counties, and a certificate of such examination entered in said books. And, whereas, the assessors' books for the year 1867 were prepared before the passage of said chapter 129, and blanks for such certificates not having been prepared therein, by reason whereof the assessors' books from several counties of the State, for the year 1867, have no such certificate appended; therefore,

Be it enacted by the Legislature of West Virginia:

1. The assessments made by the assessors of the several counties of this State on persons and property for the year one thousand eight hundred and sixty-seven, are hereby legalized.

2. Nothing in this act shall be construed to impair the right of boards of supervisors to grant redress from erroneous assessments made in said year.

House Bill No. 155.

A BILL to provide for the establishment of the State line betwee this State and the State of Maryland.

Be it enacted by the Legislature of West Virginia:

1. The Governor of this State is authorized to appoint a Commissioner on the part of the State of West Virginia, to ascertain the true line between the State of West Virginia and the State of Maryland, commencing at the Fairfax stone, thence to the Pennsylvania State line.

2. The Governor of this state is authorized to communicate with the Governor of the State of Maryland, with a view to a joint survey of said line and establishment of the same, and report his proceedings under this act to the next annual meeting of the Legislature of this State.

House Bill No. 156.

A BILL to legalize the conveyance of a lot of ground in the town of Elizabeth, in the county of Wirt, to Barnett F. Ball.

Be it enacted by the Legislature of West Virginia:

The sale and conveyance of lot No. 20, in the town of Elizabeth, in the county of Wirt, to Barnett F. Ball, by Samuel Thornton, Washington Berry and Jonathan Steel, surviving trustees thereof, who held the same in trust for the use and benefit of the Methodist Episcopal Church, be and the same is hereby legalized and made valid and binding upon said churuh and the said trustees, or the heirs or assigns of said trustees.

House Bill No. 157.

A BILL to amend and re-enact section 3 of chapter 37 of the acts of 1863.

Be it enacted by the Legislature of West Virginia:

That section three of chapter thirty-seven of the Acts of eighteen hundred and sixty-three is hereby amended and re-enacted so as to read as follows:

3. If in any case the original papers therein or any of them, or the records for an appellate court, or any papers filed or connected with such record, be lost, the court wherein the cause is, or in which, but for such loss it would or ought to be, may docket the same; and on affidavit of such loss, the cause may be proceeded in, heard and determined, upon an authenticated copy of what is lost, or proof of the contents thereof, or if the cause be in an appellate court, upon a new record made up from the records and papers of the court below, and certified by the proper officer, or in case the record and papers, or any part thereof, be lost or destroyed, the court below may, upon application of either party, upon reasonable notice to the opposite party, supply such record or part thereof from the best evidence below it, which may be used in the Court af Appeals for the same purposes that the original might be. The court may, however, at the instance of either party, or in its discretion require new pleadings to be made up in whole or in part; and the plaintiff instead of proceeding as hereinbefore provided for, may commence and prosecute a new suit for the same matter; and such new suit may, if the former suit was in due time, be brought within one year from the passage of this act, notwithstanding the expiration of the time within which such suit must otherwise have been brought.

House Bill No. 157.

A BILL providing for the changing of the county lines between the counties of Wayne and Logan.

Be it enacted by the Legislature of West Virginia:

The county line between the counties of Wayne and Logan is hereby changed so as to include the farm known as the Lewis Brewer farm, (at the mouth of Marbone creek,) in the county of Wayne.

House Bill No. 158.

A BILL concerning cases transferred from the Supreme Court of Appeals and District Courts of Virginia to the Supreme Court of Appeals of West Virginia.

Be it enacted by the Legislature of West Virginia:

1. That further time, until the close of the first term of the Supreme Court of Appeals of this State, to be held in the year eighteen hundred and sixty-nine, be given to the appellants or plaintiffs in error in cases pending in the Supreme Court of Appeals of Virginia and the district courts thereof, on the nineteenth day of June, eighteen hundred and sixty-three, and which were transferred to the Supreme Court of Appeals of West Virginia by an act entitled "An Act defining the jurisdiction and power of the Supreme Court of Appeals and the judges thereof," passed July twentieth, eighteen hundred and sixty-three, to procure and deliver to the clerks of the Supreme Court of Appeals of this State, proper copies of the records in said courts, or such substitute for such records as may be hereafter provided for by law, and to cause them to be docketed in said court last mentioned, and the provisions of this act shall extend to all the cases hereinbefore mentioned, notwithstanding such cases may have been dismissed under and by virtue of the third section of the act of July twentieth, eighteen hundred and sixty-three aforesaid, or under and by virtue of the second section of an act entitled "An Act concerning cases transferred from the Supreme Court of Appeals

and district courts of Virginia to the Supreme Court of Appeals of West Virginia," passed February twenty-seventh, eighteen hundred and sixty-six, and cases so dismissed being docketed on compliance with the terms of this act, shall be proceeded in as though no such dismissal had taken place.

2. If the appellant or plaintiff in error in any cause so pending as aforesaid, in either of the courts heretofore mentioned, shall fail to cause the same to be docketed in the Supreme Court of Appeals in accordance with the terms and within the time limited and allowed by this act, the said court at any time thereafter may, upon motion of the appellee or defendant in error, cause the said cause to be entered dismissed upon the record, with or without cost, or may, for good cause, grant further time for having the same docketed; but such extension shall not be granted more than once, and if the cause shall not be docketed within the time allowed, the same shall be dismissed.

3. So much of the provisions of the acts of July twentieth, eighteen hundred and sixty-three, and of February twenty-seventh eighteen hundred and sixty-six aforesaid, as conflict with the provisions of this act, are hereby repealed.

House Bill No. 159.

A BILL creating a School District within the town of Sistersville.

Be it enacted by the Legislature of West Virginia:

1. The town of Sistersville and surroundings, including all of District No. 6, of Lincoln township in Tyler county, shall constitute one School District; and the board of education thereof shall consist of three commissioners, who shall be elected by the resident voters of the district, and have exclusive control of all the schools within the same.

2. The board of education of the School District of Sistersville, and their successors, shall be a body corporate by the name of "The Board of Education of the District of Sistersville," and shall be invested with the same rights, exercise the same powers and perform the same duties and be governed by the same laws as boards of education of townships, except so far as may be otherwise provided in this act. They shall elect one of their number as President and one as Secretary, and may allow a reasonable compensation to the Secretary for his services, to be paid out of the School Fund.

3. The board of education shall be invested with the same rights, exercise the same powers and perform the same duties, as the trustees of school districts, so far as the same may be necessary for the prosperity and welfare of their schools, and they may close any

school in their district whenever, in their opinion, the attendance of pupils will not justify the continuance of the same. The provisions of the general school law in relation to the election of trustees shall not be held to apply to the District of Sistersville.

4. It shall be the duty of the board of education to determine, at an annual meeting to be held in the month of June, as near as practicable the amount of money necessary, in addition to all other available funds, to continue the schools of the district for the period of not less than seven school months, and they shall cause an amount to be assessed on all the taxable property of the district, and the same shall be levied, collected and disbursed in such manner, and at such rate of commission as they may determine.

5. The qualified voters of the School District of Sistersville, shall on the fourth Thursday of March next, elect three commissioners as herein provided for, whose terms of office shall be respectively for one, two and three years, as the board may determine, and the mayor of Sistersville shall superintend said election; and annually thereafter, there shall be held at the same time and place and by the same officers as the borough elections of the town of Sistersville, an election for one school commissioner for the district, whose term of office shall be for three years.

House Bill No. 160.

A BILL authorizing the transfer of Brooke Academy to the Free Schools of Brooke county.

Be it enacted by the Legislature of West Virginia:

The second section of the act entitled "An Act to repeal and re-enact section second of an act to authorize the trustees of Brooke Academy to transfer their property to the Meade Collegiate Institute, and to authorize said Institute to transfer the same property to the trustees thereinafter appointed," passed by the General Assembly of the reorganized government of Virginia January 28, 1863, is hereby amended and re-enacted so as to read as follows:

2. The trustees of Brooke Academy are hereby authorized to transfer their property, of whatever kind, and the proceeds of sale of said Academy, to the several boards of education in Brooke county, in proportion to the enrolled number of youths in each of the townships of said county, to be used by said boards of education in the erection of school buildings for free schools in said county. The said baards of education are hereby authorized to collect the proceeds of sale of said Academy, and apply the same and other property belonging to said Academy to the erection of school buildings for free school purposes.

House Bill No. 161.

A BILL authorizing the sale of the Normal School building at West Liberty.

Be it enacted by the Legislature of West Virginia:

The board of regents of the State Normal School, together with the general superintendent of free schools, are hereby authorized to sell and convey the State Normal School building at West Liberty, in Ohio county, if in their opinion the Normal School interest in the State will be subserved thereby, and when such sale shall be made, the proceeds of sale shall be paid into the State Treasury.

House Bill No. 162.

A BILL enlarging and extending the corporate limits of the town of Weston, in Lewis county.

Be it enacted by the Legislature of West Virginia:

The corporate limits of the town of Weston, in Lewis county, are hereby enlarged and extended so as to include all the real estate included within the following metes and bounds, to wit: Beginning at the mouth of Murphey's creek, and running down the West Fork river to the mouth of Panther run; thence up said run with the meanders thereof, to its head; thence a line to Stone Coal creek, east of the dwelling house of John Kierans, so as to include East Weston, or Germantown; thence a straight line to the stable of Abraham Smith, Jr., so as to include the dwelling houses of John Kierans and Catharine McGeary; thence a straight line to Low Gap, at the head of Gee Lick run; thence a straight line to Murphy's creek, including the dwelling houses of Adam B. Flesher and Marshall Turner; thence down said creek with the meanders thereof to the place of beginning. The powers and duties of the municipal authorities shall be the same within the same, as those heretofore exercised by said suthorities.

House Bill No. 163.

A BILL to amend and re-enact section 10 of chapter 51, entitled "An Act to establish a court of limited jurisdiction in the city of Wheeling," passed February 24, 1865.

Be it enacted by the Legislature of West Virginia:

1. That section tenth of chapter fifty-one, entitled "An Act to establish a court of limited jurisdiction in the city of Wheeling," passed February 24, 1865, be and is hereby amended and re-enacted so as to read as follows:

10. That the council of said city is hereby authorized to appoint the mayor of said city, or some competent parson, who shall exercise the police jurisdiction of said court when the judge thereof, from sickness or other cause, is incapable of acting, or is absent from the city, or the office is vacant.

House Bill No. 164.

A BILL to abolish the office of County Treasurer.

Be it enacted by the Legislature of West Virginia:

1. The office of county treasurer shall be abolished on and after January 1st, 1869, and the duties now pertaining to that office shall be discharged by the sheriff.

2. He shall receive no compensation for disbursing any money for which he receives a commission for collecting, but shall receive a commission of per centum upon all moneys received from other sources.

3. All monies now required to be paid to the county treasurer, shall, after said first day of January, 1869, be paid to the sheriff, who shall give duplicate receipts therefor, one of which shall be deposited with the clerk of the board of supervisors, who shall charge the amount thereof to the sheriff, in a book to be kept for that purpose.

4. All orders now authorized to be drawn upon the county treasurer for money due by the county, shall, after said January 1st, 1869, be drawn upon the sheriff, who shall not directly or indirectly purchase any such order for any less sum than such order calls for.

House Bill No. 165.

A BILL to amend the law regulating Free Schools.

Be it enacted by the Legislature of West Virginia:

1. Section five of the act passed February 27. 1867, entitled "An Act regulating Free Schools," is hereby amended and re-enacted so as to read as follows:

"5. The supervisor, clerk of the township and township treasurer of each township shall constitute the board of education thereof, and as such they and their successors shall be a corporation by the name of "The Board of Education of the Township of ." The supervisor shall be the president, and the clerk of the township clerk of said board."

2. The county superintendent of free schools shall receive for his services a compensation, to be fixed by the board of supervisors of his county, not to exceed three dollars per day for each day he is actually and necessarily employed in the due and proper discharge of the duties of his office, and not to exceed in all, in any county, the sum of five hundred dollars per annum. Every such superintendent may make out and present his account for services quarterly to the board of supervisors of his county, who may credit and certify the same for payment. But no such account shall be allowed or certified for payment, unless it is accompanied by the affidavit of such superintendent, that the number of days charged therein were actually and necessarily employed by him in the due and proper discharge of the duties of his office; Provided, That this section shall not apply to or affect the salary of any such superintendent now in office, where the same has already been fixed by the board of supervisors.

3. So much of the act recited in the first section as is inconsistent with the provisions of this act is hereby repealed.

House Bill No. 166.

A BILL to incorporate Hartford City, in the county of Mason.

Be it enacted by the Legislature of West Virginia:

1. That the places known as the towns of "Hartford City" and "Valley City," in the county of Mason, be and the same are hereby made a town corporate and body politic, by the name of the town of "Hartford City," and as such shall have perpetual succession and a common seal, plead and be impleaded, and purchase, lease and hold real and personal property necessary to the purposes of said corporation.

2. The boundaries of said corporation shall be as follows: Commencing on the Ohio river at the point where the line between William Harpold and Major Brown strikes said river; thence with the line between Harpold and Brown in a westerly direction to the public road; thence up said road to where the line between the said Harpold and Brown strikes the road; thence with the said Harpold and Brown's line until it strikes the line between Dr. J. R. Meeks and Major Brown; thence with the said line between Dr. Meeks and Major Brown, until it strikes the line between the Mason County Mining and Manufacturing Company and Major Brown; thence with the said line of the Mason County Mining and Manufacturing Company to the Ohio river, including within the said corporation all the lands of the Mason County Mining and Manufacturing Company and the residence of Anthony Allen; thence following the Ohio river to the place of beginning.

3. The municipal authorities of the said town shall be a mayor,

recorder and five councilmen, who together shall form a common council.

4. All the corporate powers of the said corporation shall be exercised by the said council, or under their authority, except where otherwise provided.

5. The councilmen must be freeholders in said town, and no person shall be eligible to the office of mayor, recorder or councilman of said town unless entitled to vote for members of the State Legislature.

6. Their term of office shall be for one year, and until their successor shall have been elected and qualified as hereinafter provided.

7. The mayor, recorder and councilmen shall be elected by the citizens of said town who may be entitled to vote under this act.

8. The first election under this act shall be held on the second Thursday in April, 1868, at the school house in said town, under the supervision of any three freeholders, residents of said town, and annually thereafter there shall be an election on the same day in each year, under such supervision, rules and regulations as the council of said town shall prescribe. The persons conducting the first election, and the persons who shall thereafter conduct elections in said town, shall grant all necessary certificates to the persons elected, certifying to their election, and for what office, which certificates shall be entered upon the records with the ordinances of said council. And their term of office shall commence on the first day of May next after their election. If from any cause the first election shall not be held on the day herein specified, the same may be held on any subsequent day, upon ten days' notice thereof being posted on the front door of said school house, by any three of the qualified voters of said town, under the superintendent aforesaid,

or under the superintendence of any three voters of said town appointed for that purpose by the voters present. But the term of office of the persons elected on such subsequent day shall be held to commence on the said first day of May, 1868.

9. All persons who have had their domicils in the said town for six months next preceding the day of election, who are qualified to vote for members of the Legislature of this State, and none others, shall be entitled to vote for all officers elected by the people under this act.

10. At all elections the vote shall be given by ballot.

11. Whenever two or more persons shall receive an equal number of votes for the same office, the persons under whose supervision the election is held, shall decide which of them shall be returned as elected, and shall make their return accordingly.

12. The term of office, powers, duties, compensation and liabilities of the council and officers of said town, shall be those prescribed in sections 12 to 23, 25 to 41, and 43 to 45 inclusive, of chapter 16 of the Acts of 1867, so far as the same are not inconsistent with this act, which sections shall have the same force and effect as if they were herein recited and set forth; and in addition hereto the said council shall have power within said town to lay off, grade and pave a wharf to the Ohio river.

13. The said town, within the corporate limits aforesaid, shall constitute a separate road, school and poor district of the said county of Mason, and shall be free from all taxes for county purposes in said county; and the said council shall constitute the board of education of said school district, and board of overseers of the poor for said poor district, and shall have all the powers and perform all the duties within said corporation as are conferred upon and required

by the laws of the State of West Virginia, of township boards of education, and trustees of school districts, and boards of overseers of the poor, and shall be subject to the same liabilities, pains and penalties as such boards and trustees.

14. The council shall have power to borrow such sum of money as they may deem necessary, not exceeding five thousand dollars, upon the credit of the town, at a rate of interest not exceeding ten per cent per annum for the purpose of purchasing land and erecting thereon a good and sufficient school house for the use of said town, and for building a wharf to the Ohio river, and for erecting or building such bridges as may be necessary for the public use and convenience in said town. And in case the said council shall at any time fail to pay the principal or interest, or any part of the money so borrowed, according to the terms of their contract, it shall be the duty of the circuit court of the said county of Mason, upon the application of the person to whom the same is payable, to compel the payment by the said council by a writ of mandamus. In case the council shall borrow money under the provisions of this section, it shall from time to time, in addition to the tax authorized by section twenty-eight, levy a tax specially appropriated to that purpose sufficient to pay the principal and interest of the money so borrowed, as the same may become due. And in case where a higher rate of taxes than is provided for by said section is necessary for the building school houses or for the support of schools in said town, it shall be the duty of the council to assess such additional taxes as may be necessary for said purpose.

15. This act shall at all times be subject to modification or repeal at the pleasure of the Legislature.

House Bill No. 167.

A BILL declaring a part of the Beverly and Fairmont Turnpike a State Road.

Be it enacted by the Legislature of West Virginia:

1. That part of the Beverly and Fairmont Turnpike lying between Webster, in the county of Taylor, and Beverly, in the county of Randolph, is hereby declared a State road, together with the bridge across the Tygart's Valley river, at Phillippi, in the county of Barbour, the toll house at said bridge, and all other property of said road formerly the property of the State of Virginia, is hereby declared the property of West Virginia; Provided, that this act shall not take effect until the expiration or default of all the contracts made by the boards of supervisors of the several counties through which the said road passes.

2. The board of public works is hereby authorized to appoint a superintendent for said road, and fix his salary, which salary shall be paid from the proceeds of said road arising from the tolls thereof, and they shall also collect tolls, according to the rates heretofore established, and to keep said road in good repair.

3. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

House Bill No. 168.

A BILL amending the charter of the Parkersburg and Sandy Railroad Company.

Be it enacted by the Legislature of West Virginia:

That sections one and three of the act of the General Assembly of the re-organized government of Virginia, passed January 10th, 1862, entitled "An Act incorporating the Parkersburg and Sandy Railroad Company," be and the same are hereby amended and re-enacted so as to read as follows:

"1. That it shall be lawful to open books in the town of Parkersburg, in the county of Wood, under the direction of Samuel D. Karnes, William E. Stevenson, M. C. C. Church, W. B. Caswell and George Bradish, and at Point Pleasant, in the county of Mason, under the direction of Daniel Polsley, Robert S. Brown, George W. Moredock and F. W. Sisson, and at Guyandotte, in the county of Cabell, under the direction of E. A. Smith, William F. Dusenbury, Wm. O. Wright, Dr. J. H. Hezrel and T. J. Hazslip, and at Charleston, Kanawha county, under the direction of C. W. Smith, James M. Laidley, David Goshorn, John Slack, Jr., and Andrew Cunningham, for the purpose of receiving subscriptions to an amount not exceeding five millions of dollars, to constitute a joint capital stock for the purpose of constructing a railroad from Parkersburg, in the county of Wood, by the most prtcticable route to some point on the Chesapeake and Ohio Railroad not above the town of Charleston, in the county of Kanawha, nor below the town of Guyandotte, in the county of Cabell."

"3. The said company shall have power to borrow money for the purpose of carrying out the objects of this act, and to issue proper certificates or evidences of such loans. and to pledge the property of the company for the payment of the same, and the interest that may accrue thereon. The said company shall commence the construction of said road within three years, and complete the same within ten years from the passage of this act."

House Bill No. 170.

A BILL to alter part of the Division Line between the Counties of Nicholas and Braxton.

Be it enacted by the Legislature of West Virginia:

1. The division line between the counties of Nicholas and Braxton are hereby altered so as to run as follows, to-wit: Beginning at the mouth of Skiles' Creek, a north branch of Big Birch, near a corner of the county of Webster, thence a straight line to the mouth of the rich fork of Anthoney's creek, a south branch of Big Birch river, thence a straight line to the mouth of the rich fork of Powell's creek, a south branch of said river, thence a straight line to the corner of Clay county, at the upper end of Isaac Dilley's farm on Strange creek, thence with the Clay county line to the Braxton county line.

2. H. A. Holt of the county of Braxton and William Frame of the county of Nicholas, are hereby appointed commissioners to run the dividing lines between the counties of Nicholas and Braxton as altered by this act. The said commissioners shall have power to employ a competent surveyor who shall run and mark the said line under their direction, and in case they differ shall decide between them. The said surveyor shall make three plats of the boundary line run by him, one of which shall be delivered by the said commissioners to the recorder of each of the counties of Nicholas and Braxton, and the third one shall be delivered to the Secretary of the State, to be preserved by them in their respective offices.

3. The board of supervisors of Braxton county shall provide for the expenses of running and marking said line.

House Bill No. 171.

A BILL amending the Charter of the town of Moundsville.

Be it enacted by the Legislature of West Virginia:

Chapter sixty of the acts of 1866, is hereby amended by the addition of the following section, viz:

14. Whenever anything for which a State license is required is to be done within said town, the council may require a town license to be had for doing the same, and may impose a tax thereon for the use of the town, and the council may in any case require from the person licensed, a bond with sureties, and in such penalty and with such conditions as it may deem proper, and may revoke such license at any time if the condition of said bond be broken. And no license to sell strong or spirituous liquors, or wine, beer, porter, ale, or drinks of like nature, within said town or within two miles of the corporate limits thereof, shall be granted by the supervisors of Marshall county, unless the person applying therefor shall produce to said supervisors the certificate of the council of said town of its consent to the granting of such license.

House Bill No. 172.

A BILL amending and re-enacting the first and third sections of chapter fifty-four of the Acts of 1867.

Be it enacted by the Legislature of West Virginia:

1. The first and third sections of chapter fifty-four, of the Acts of eighteen hundred and sixty-seven, are hereby amended and re-enacted so as to read as follows:

1. All taxes assessed for State purposes in the counties of Webster and Pochahontas for the year 1865, except twenty-six hundred and sixty dollars and forty-two cents, paid into the State Treasury previous to the first day of February, 1867, and all taxes assessed on the lands of non-residents in said counties, for the years 1861, 1862, 1863 and 1864, not collected and paid into the State Treasury, previous to February first, 1867, are hereby appropriated to aid the citizens of said counties in constructing turnpike roads from Edray, in the county of Pocahontas, to Sand run, in the county of Webster, and from Valley Head, in the county of Randolph, to said Sand run, in the county of Webster.

2. The Sheriff of the county of Pocahontas shall pay said taxes collected in said county, with interest thereon, upon the order of George P. Moore, Robert S. Gary and C. M. C. Hamric, or any two of them, commissioners appointed by the Board of Supervisors of said counties, to whom the Board of Public Works have

transferred their authority over said turnpike road, in accordance with the sixth section of said act of 1867. On failure of sheriff to pay any of said taxes that he may have collected or shall hereafter collect, upon the orders of the parties mentioned and provided in this section, he shall pay four per centum per annum damages after the first day of April, 1868, provided however, that said sheriff is entitled to five per cent on the dollar for collecting and paying over the same. And the sheriff of the county of Webster shall pay over the said tax collected by him to the receiver of said county, appointed by the Circuit Court thereof, whose duty it shall be to pay out the same to the best advantage in opening and repairing that part of the turnpike from Valley Head, in the said county of Randolph, to Sand run, in the said county of Webster, known as the Slaver's Cabin and Summerville Turnpike Road, and he may retain the money or any part thereof, until any contract upon said road is completed, and he shall have three per cent on the dollar for receiving and disbursing the same, and the sheriff of the county of Webster shall have the same per centum as the Sheriff of the county of Pocahontas, for collecting said tax and shall be liable for damages in the same manner.

3. All acts or parts of acts inconsistent with this act, are hereby repealed

House Bill No. 173.

A BILL to alter part of the division line between the counties of Roane and Wirt.

Be it enacted by the Legislature of West Virginia:

1. The division line between the counties of Roane and Wirt, is hereby so altered as to run as follows, to wit: Beginning on the top of the ridge between Conrad's Run and Main Reedy Creek, at the point where said line leaves the top of said ridge, running toward Dempsy P. Flesher's farm on said Reedy Creek, thence a straight line and an easterly course to the dividing line between the counties of Roane and Calhoun, to the farm of Daniel Dusky, on the West fork.

2. The alteration herein provided for shall not be of force until the surveyor of the county of Roane shall run and mark the said new line, and make three fair plats thereof, which he shall duly certify, and forward one to the Secretary of the State, another to the recorder of the county of Wirt, and the third to the recorder of the county of Roane, who shall file and carefully preserve the same in their respective offices.

3. The account of the said surveyor for his fees and expenses incurred under the provisions of this act, shall be audited by the board of supervisors, and paid out of the treasury of the county of Roane.